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CLERK
UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 FRED C. TRUMP, DONALD TRUMP)
 and TRUMP MANAGEMENT INC.,)
)
 Defendants.)
 _____)

730 1529

CIVIL ACTION NO. _____

COMPLAINT FOR INJUNCTION
PURSUANT TO FAIR HOUSING
ACT OF 1968, 42 U.S.C.
3601, et seq.

The United States of America alleges:

1. This is an action brought pursuant to 42 U.S.C. 3613 seeking to remedy violations of the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601, et seq.
2. This Court has jurisdiction of this action under 28 U.S.C. 1345 and 42 U.S.C. 3613.
3. Defendant Trump Management Inc., which is a New York corporation, doing business in the Eastern District of New York, manages and operates numerous apartment buildings, totalling at least 14,000 dwelling units in the New York area and elsewhere. Defendant Fred C. Trump is the principal stockholder and Chairman of the Board of Directors of Trump Management Inc. Defendant Donald Trump is president of Trump Management Inc. The defendants Fred C. Trump and Donald Trump transact business in New York and are responsible for the policies and practices of Trump Management Inc.

4. The apartment buildings and complexes managed by Trump Management Inc. are dwellings within the meaning of 42 U.S.C. 3602(b).

5. The defendants, through the actions of their agents and employees, have discriminated against persons because of race in the operation of their apartment buildings, among other ways, by:

(a) Refusing to rent dwellings and negotiate for the rental of dwellings with persons because of race and color, in violation of Section 804(a) of the Fair Housing Act of 1968, 42 U.S.C. 3604(a).

(b) Requiring different terms and conditions with respect to the rental of dwellings because of race and color, in violation of Section 804(b) of the Fair Housing Act of 1968, 42 U.S.C. 3604(b).

(c) Making and causing to be made statements with respect to the rental of dwellings which indicate a preference, limitation and discrimination based on race and color in violation of Section 804(c) of the Fair Housing Act of 1968, 42 U.S.C. 3604(c).

(d) Representing to persons because of race and color that dwellings are not available for inspection and rental when such dwellings are in fact so available, in violation of Section 804(d) of the Fair Housing Act of 1968, 42 U.S.C. 3604(d).

6. The defendants' conduct described in the preceding paragraph constitutes:

(a) A pattern and practice of resistance by the defendants to the full enjoyment of rights secured by Title VIII of the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq; and

(b) A denial to groups of persons of rights granted by Title VIII of the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq., which denial raises an issue of general public importance.


WHEREFORE the plaintiff prays that the Court enter an Order enjoining the defendants, their employees, agents, and successors and all those in active concert and participation with any of them, from:

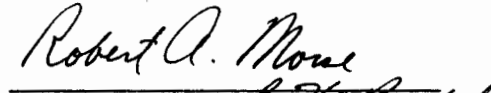
(a) Discriminating against any person on the basis of race, color, religion or national origin, with respect to any right secured by the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq.

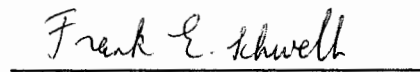
(b) Failing or refusing to take adequate affirmative steps to correct the effects of their past discriminatory policies and practices. Plaintiff further prays for such


additional relief as the interests of justice
may require, together with the costs and dis-
bursements of this action.


ELLIOT L. RICHARDSON
Attorney General


J. STANLEY POTTINGER
Assistant Attorney General


ROBERT A. MORSE *By D.W. Brantford*
United States Attorney


FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice


ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice

United States District Court

OCT 29 1973

FOR THE

EASTERN DISTRICT OF NEW YORK

THE AM
P.M.

CIVIL ACTION FILE NO.....

UNITED STATES OF AMERICA,

Plaintiff

v.

FRED C. TRUMP, DONALD TRUMP
and TRUMP MANAGEMENT, INC.,

Defendants

730 1529

SUMMONS

RECEIVED
U.S. DISTRICT COURT
E.D.N.Y.
OCT 15 1973

To the above named Defendant :

You are hereby summoned and required to serve upon ROBERT A. MORSE, United States Attorney for the Eastern District of New York,

plaintiff's attorney , whose address is 225 Cadman Plaza East, Brooklyn, New York, 11201,

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint.

LEWIS ORGEL

Clerk of Court.

Amelia Lane

Deputy Clerk.

Brooklyn, N.Y.

Date: October 15, 1973

[Seal of Court]

Note:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

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U. S. MARSHALS SERVICE
INSTRUCTION AND PROCESS RECORD

INSTRUCTIONS: See "INSTRUCTIONS FOR SERVICE OF PROCESS BY THE U.S. MARSHAL" on the reverse of the last (No. 5) copy of this form. Please type or print legibly, insuring readability of all copies. Do not detach any copies.

PLAINTIFF UNITED STATES OF AMERICA	COURT NUMBER 73-C-1529
DEFENDANT FRED C. TRUMP, et al.	TYPE OF WRIT Summons & Complaint

SERVE	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN FRED C. TRUMP
AT	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) 200 Garden City Plaza, Garden City, N. Y. 600 Avenue Z, Brooklyn, New York (SH 3-4400)

SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW:

Henry A. Brachtl, AUSA
 U. S. Courthouse
 225 Cadman Plaza East
 Brooklyn, New York 11201

Show number of this writ and total number of writs submitted, i.e., 1 of 1, 1 of 3, etc.	NO.	TOTAL
	1	3

CHECK IF APPLICABLE:

One copy for U. S. Attorney or designee and two copies for Attorney General of the U. S. included.

SHOW IN THE SPACE BELOW AND TO THE LEFT ANY SPECIAL INSTRUCTIONS OR OTHER INFORMATION PERTINENT TO SERVING THE WRIT DESCRIBED ABOVE.

SPECIAL INSTRUCTIONS:

NAME AND SIGNATURE OF ATTORNEY OR OTHER ORIGINATOR <i>Henry A. Brachtl</i> Henry A. Brachtl, Assistant U. S. Attorney	TELEPHONE NUMBER 596-3563	DATE 10/15/73
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SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE

Show amount of deposit (or applicable code) and sign USM-285 for first writ only if more than one writ submitted.	DEPOSIT/ CODE C 53 53	DIST. OF ORIGIN	DISTRICT TO SERVE	LOCATION OF SUB-OFFICE OF DIST. TO SERVE
I acknowledge receipt for the total number of writs indicated and for the deposit (if applicable) shown.	SIGNATURE OF AUTHORIZED USMS DEPUTY OR CLERK <i>Seraldine C. Goody</i>			DATE 10-15-73

I hereby certify and return that I have personally served, have legal evidence of service, or have executed as shown in "REMARKS," the writ described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below.

I hereby certify and return that, after diligent investigation, I am unable to locate the individual, company, corporation, etc., named above within this Judicial District.

NAME AND TITLE OF INDIVIDUAL SERVED (If not shown above)	<input type="checkbox"/> A person of suitable age and discretion then abiding in the defendant's usual place of abode.
ADDRESS (Complete only if different than shown above)	FEE (If applicable) \$ 3.00
	MILEAGE \$ —

DATE(S) OF ENDEAVOR (Use Remarks if necessary)	DATE OF SERVICE 10/16/73	TIME 4:45 PM	SIGNATURE OF U. S. MARSHAL OR DEPUTY <i>William J. Galuski</i>
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REMARKS

U. S. MARSHALS SERVICE
INSTRUCTION AND PROCESS RECORD

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PLAINTIFF UNITED STATES OF AMERICA	COURT NUMBER 73-C-1529
DEFENDANT FRED C. TRUMP, et al.	TYPE OF WRIT Summons & Complaint

SERVE



NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN
DONALD TRUMP
 ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)
600 Avenue Z, Brooklyn, New York (SH3-4400)
~~200 Garden City Plaza, Garden City, N. Y.~~

AT

SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW:

Henry A. Brachtl, AUSA
 U. S. Courthouse
 225 Cadman Plaza East
 Brooklyn, New York 11201

Show number of this writ and total number of writs submitted, i.e., 1 of 1, 1 of 3, etc.

NO.	TOTAL
2	3

CHECK IF APPLICABLE:
 One copy for U. S. Attorney or designee and two copies for Attorney General of the U. S. included.

SHOW IN THE SPACE BELOW AND TO THE LEFT ANY SPECIAL INSTRUCTIONS OR OTHER INFORMATION PERTINENT TO SERVING THE WRIT DESCRIBED ABOVE.

SPECIAL INSTRUCTIONS:

NAME AND SIGNATURE OF ATTORNEY OR OTHER ORIGINATOR <i>Henry A. Brachtl</i> Henry A. Brachtl, Assistant U. S. Attorney	TELEPHONE NUMBER 596-3563	DATE 10/15/73
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SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE

Show amount of deposit (or applicable code) and sign USM-285 for first writ only if more than one writ submitted.	DEPOSIT/CODE	DIST. OF ORIGIN SP	DISTRICT TO SERVE SP	LOCATION OF SUB-OFFICE OF DIST. TO SERVE
I acknowledge receipt for the total number of writs indicated and for the deposit (if applicable) shown.	SIGNATURE OF AUTHORIZED USMS DEPUTY OR CLERK			DATE 10-15-73

I hereby certify and return that I have personally served, have legal evidence of service, or have executed as shown in "REMARKS," the writ described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below.

I hereby certify and return that, after diligent investigation, I am unable to locate the individual, company, corporation, etc., named above within this Judicial District.

NAME AND TITLE OF INDIVIDUAL SERVED (If not shown above)	<input type="checkbox"/> A person of suitable age and discretion then abiding in the defendant's usual place of abode.
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ADDRESS (Complete only if different than shown above)	FEE (If applicable) \$ 3.00	MILEAGE \$ 2.88
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DATE(S) OF ENDEAVOR (Use Remarks if necessary)	DATE OF SERVICE 10/16/73	TIME 4M PM	SIGNATURE OF U.S. MARSHAL OR DEPUTY <i>William J. Salisbi</i>
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REMARKS

U. S. MARSHALS SERVICE
INSTRUCTION AND PROCESS RECORD

INSTRUCTIONS: See "INSTRUCTIONS FOR SERVICE OF PROCESS BY THE U. S. MARSHAL" on the reverse of the last (No. 5) copy of this form. Please type or print legibly, insuring readability of all copies. Do not detach any copies.

PLAINTIFF UNITED STATES OF AMERICA	COURT NUMBER 73-C-1529
DEFENDANT FRED C. TRUMP, et al.	TYPE OF WRIT Summons & Complaint

SERVE ➔ AT	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN TRUMP MANAGEMENT, INC.
	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) 600 Avenue Z, Brooklyn, New York 200 Garden City Plaza, Garden City, N. Y. (SH3-4400)

SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW: Henry A. Brachtl, AUSA U. S. Courthouse 225 Cadman Plaza East Brooklyn, New York 11201	Show number of this writ and total number of writs submitted, i.e., 1 of 1, 1 of 3, etc. ➔	NO. 3	TOTAL 3
	CHECK IF APPLICABLE: <input type="checkbox"/> One copy for U. S. Attorney or designee and two copies for Attorney General of the U. S. included.		
	SHOW IN THE SPACE BELOW AND TO THE LEFT ANY SPECIAL INSTRUCTIONS OR OTHER INFORMATION PERTINENT TO SERVING THE WRIT DESCRIBED ABOVE.		

SPECIAL INSTRUCTIONS:
 Defendant Fred C. Trump is Chairman of the Bd. of Directors, and Donald Trump is president of the above named corporation.

NAME AND SIGNATURE OF ATTORNEY OR OTHER ORIGINATOR Henry A. Brachtl, Assistant U. S. Attorney	TELEPHONE NUMBER 596-3563	DATE 10/15/73
---	-------------------------------------	-------------------------

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE

Show amount of deposit (or applicable code) and sign USM-285 for first writ only if more than one writ submitted. ➔	DEPOSIT/CODE	DIST. OF ORIGIN SS	DISTRICT TO SERVE SS	LOCATION OF SUB-OFFICE OF DIST. TO SERVE
I acknowledge receipt for the total number of writs indicated and for the deposit (if applicable) shown.	SIGNATURE OF AUTHORIZED USMS DEPUTY OR CLERK			DATE 10-15-73

I hereby certify and return that I have personally served, have legal evidence of service, or have executed as shown in "REMARKS," the writ described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below.

I hereby certify and return that, after diligent investigation, I am unable to locate the individual, company, corporation, etc., named above within this Judicial District.

NAME AND TITLE OF INDIVIDUAL SERVED (If not shown above) DONALD TRUMP, PRESIDENT	<input checked="" type="checkbox"/> A person of suitable age and discretion then abiding in the defendant's usual place of abode.
ADDRESS (Complete only if different than shown above)	FEE (If applicable) \$3.00 MILEAGE \$ —

DATE(S) OF ENDEAVOR (Use Remarks if necessary)	DATE OF SERVICE 10/16/73	TIME AM	SIGNATURE OF U. S. MARSHAL OR DEPUTY Sullivan J. Deliski
--	------------------------------------	-------------------	--

REMARKS

NOV 2 1973
TIME AM...
P.M....

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	NOTICE OF APPEARANCE
Plaintiff,	:	
-against-	:	Civil Action File No. 73 C 1529
FRED C. TRUMP, DONALD TRUMP, and	:	
TRUMP MANAGEMENT, INC.,	:	
Defendants.	:	

S I R :

PLEASE TAKE NOTICE, that the defendants, Fred C. Trump, Donald Trump, and Trump Management, Inc., hereby appear in the above entitled action, and that the undersigned have been retained as attorneys for said defendants and demand that copies of all papers in this action be served upon the undersigned at the office and post office address stated below.

Yours, etc.
Saxe, Bacon, Bolan & Manley
SAXE, BACON, BOLAN & MANLEY
Attorneys for Defendants
39 East 68th Street
New York, New York 10021
(212) 472 1400

TO: Hon. Robert A. Morse
United States Attorney
Eastern District of New York
Attorney for Plaintiff
225 Cadman Plaza East
Brooklyn, New York 11201

3

U.S. DISTRICT COURT

NOV 7 1973

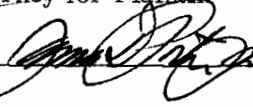
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	STIPULATION
	:	
Plaintiff,	:	Civil Action File
	:	No. 73 C 1529
-against-	:	
	:	
FRED C. TRUMP, DONALD TRUMP, and	:	
TRUMP MANAGEMENT, INC.,	:	
	:	
Defendants.	:	

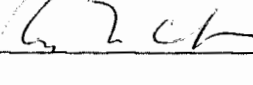
IT IS HEREBY STIPULATED AND AGREED, by and between the United States Attorney for the Eastern District of New York, attorney for the plaintiff, and Saxe, Bacon, Bolan & Manley, attorneys for the defendants, that the defendants' time within which to answer or otherwise move with respect to the complaint be and the same hereby is extended to and including November 26, 1973.

Dated: New York, New York
November 1, 1973

Robert A. Morse
United States Attorney
Eastern District of New York
Attorney for Plaintiff

By 

Saxe, Bacon, Bolan & Manley
Attorneys for Defendants

By 

SO ORDERED:

BROOKLYN, NEW YORK
NOVEMBER 5, 1973
Edward R. Healey
U. S. D. J.

4

IN THE UNITED STATES DISTRICT COURT FOR THE
 EASTERN DISTRICT OF NEW YORK

FILED
 IN THE CLERK'S OFFICE
 U. S. DISTRICT COURT E.D. N.Y.
 ★ NOV 15 1973 ★

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 FRED C. TRUMP, DONALD)
 TRUMP and TRUMP MANAGEMENT)
 INC.,)
)
 Defendants.)
 _____)

TIME A.M.
 P.M.
 CIVIL ACTION NO. 73 C 1529

PLAINTIFF'S FIRST
INTERROGATORIES TO
DEFENDANTS

TO THE DEFENDANTS, FRED C. TRUMP, DONALD TRUMP, AND TRUMP
 MANAGEMENT INC.:

Plaintiff requests that the defendants answer each
 Interrogatory separately and fully, in writing and under
 oath, in accordance with Rule 33 of the Federal Rules of
 Civil Procedure. If the information requested by any Inter-
 rogatory is contained in documents, papers or records in the
 custody of the defendants, you may so indicate and answer
 that Interrogatory by attaching copies of such documents or
 papers to your answers and by indicating the Interrogatory to
 which those documents or papers are deemed responsive. In
 the alternative, you may answer that Interrogatory by identify-
 ing those documents, papers or records in which the answer is
 contained and specifying the location of the documents, papers
 or records, and making the same available to Plaintiff to inspect,
 copy or photograph.

5

These Interrogatories call for all information available to the defendants, their employees and agents, and the officers of defendant Trump Management Inc., with respect to the subject matter into which they inquire. If some of the information is known or available to a particular officer, employee or agent, and other information is available to another officer, employee or agent, please include in your answers all information known to each officer, employee or agent, and please specify which officer, employee or agent provided information with respect to each answer:

1. Please state the name, race and address of all persons who own stock or who have any other ownership interest, direct or indirect, in Trump Management Inc. [hereinafter referred to as "T.M.I."] and the date they acquired such interest.

2. Please state the date and place of incorporation of T.M.I. and the name, race and address of each officer of the corporation. Please specify each officer's duties.

3. Please state whether any person with an interest in T.M.I., as described in the above two Interrogatories, directly or indirectly supervises the management of the apartments owned and/or managed by T.M.I. If so, please identify the person or persons with such supervisory duties and explain in detail those duties performed.

4. Please state whether any person with an ownership or management interest in T.M.I., owns any interest, direct or indirect, in any other real estate development, management or

promotion company. If so, please identify each such real estate interest and its location. In the case of any other apartment complex in which an interest is held by such person, or which is owned by a company in which such person owns an interest, please indicate the total number of units at each said apartment complex and the number of units at each said apartment complex that are occupied by Negro */ persons.

5. Please state the name and address of each apartment building or real estate development owned and/or managed, in whole or in part, by T.M.I. at anytime since January 1, 1968 and with respect to each, please state the following information:

A. The date the apartment or development opened for occupancy;

B. The number of efficiencies, one-bedrooms, two-bedrooms, and three-bedrooms in each building;

C. The number of units in each building occupied by Negroes as of January 1, 1968, January 1, 1969 and as of the present time. Please identify each individual by name, address and dates of occupancy;

X D. Please indicate the date the first Negro tenant, other than an employee of T.M.I., moved into each building;

E. Please set forth the number of apartment units which became available for rental, by size, **/

*/ In each Interrogatory requesting information concerning Negroes, please also indicate the same information for Puerto Ricans.

**/ For example, one-bedrooms, two-bedrooms, etc.

per month, between January 1, 1969 and November 1, 1973;

F. Please state the number of persons per month, by race, making inquiry concerning the availability of an apartment between January 1, 1969, and the present. Please also state the number of people who submitted applications for an apartment during the same period of time. If exact figures are not reasonably available, please provide estimates or approximations. In any event, please state the basis for the figures provided;

G. Whether a formal, written application is required of every prospective tenant and, if so, whether any exceptions are made to this general policy. If exceptions are made, please state how frequently they are made, why exceptions are made and the name, race, address and job title of every person who has the authority to make these exceptions. If any applicant has been accepted as a tenant without submitting a formal written application in the past three years, */ please indicate the tenant's name, race, address and the circumstances surrounding the rental of the apartment. Please state how long applications for apartments are retained on file.

*/ The term "past three years" used throughout these Interrogatories means the period of time between November 1, 1970 and November 1, 1973.

If you are willing to do so, please attach copies of such application forms to your answers to these Interrogatories;

H. The maximum, average, and minimum length of time required for the processing of tenant applications. Please state what factors have affected or presently affect the time required for the processing of individual applications;

I. Please indicate what qualifications have been or are required for an applicant to be accepted as a tenant in terms of income, credit standing, age, education, family status, children, or any other factors which may be taken into account in deciding whether to accept or reject an applicant. If exceptions to these qualifications are made, please state how frequently they are made, why exceptions are made and the name, race, address and job title of every person who has the authority to make these exceptions. If any applicant has been accepted as a tenant without meeting these requirements in the past three years, please indicate the tenant's name, race, address and the circumstances surrounding the rental of the apartment;

J. Please state whether credit or background checks are or have been obtained in the past three years on every prospective tenant and, if so, whether any exceptions are made

to this general policy. If exceptions to obtaining credit or background checks are made, please state how frequently they are made, why exceptions are made and the name, race, address and job title of every person who has the authority to make these exceptions. If any applicant has been accepted as a tenant without a credit or background check being obtained in the past three years, please indicate the tenant's name, race, address and the circumstances surrounding the rental of the apartment. Please state whether the services of any credit reporting companies have been used at any time since January 1, 1969 and, if so, indicate the name of each company and the dates its services have been used. Also, please state whether the reports are given orally or in writing, whether the same types of reports are required on all applicants, the general contents of the reports, and under what, if any, circumstances different types of reports are requested or required;

K. Please indicate whether a waiting list is maintained from which new tenants are selected. If so, please state whether there is one central waiting list for all the buildings managed and/or owned by T.M.I. or if there is a separate waiting list for each apartment building managed and/or owned by T.M.I.

Please describe the conditions which must be met before an applicant's name goes on the waiting list, how often the list is updated and the average number of persons on the list at any one time. Please state whether all new tenants are selected from the waiting list or whether exceptions are made to rent to individuals not on the list. If exceptions are made, please state how frequently they are made, why exceptions are made and the name, race, address and job title of every person who has the authority to make these exceptions. (If no central waiting list is maintained, please state the information requested above separately for each apartment building that utilizes a waiting list.) Please list the name, race and address of the last ten tenants (if applicable) who were rented an apartment while a waiting list was maintained, but whose names were not on a waiting list.

If you are willing to do so, would you please attach a copy of the waiting lists used since January 1, 1970, including the name, address, race and date of application of each prospective tenant. In the alternative, are you willing to allow representatives of the plaintiff to inspect and copy these documents without an Order of the Court under Rule 34 of the Federal Rules of Civil Procedure.

L. Please state whether a security deposit is required of every prospective tenant and, if so, whether any exceptions are made to this general policy. If exceptions are made, please indicate how frequently they are made, why exceptions are made and the name, race, address and job title of every person who has the authority to make these exceptions. If any applicant has been accepted as a tenant without submitting a security deposit in the past three years, please indicate the tenant's name, race, address and the circumstances surrounding the rental of the apartment. Please indicate the amount of security deposit required and whether it is required the time of application or whether it may be submitted subsequent to the formal application;

M. Please state the monthly rental rates for efficiencies, one, two and three-bedroom apartments. Please indicate whether there have been any increases or decreases in these rental rates since January 1, 1968, and, if so, the reasons for such changes. Please state this information for each complex owned and/or managed by T.M.I.;

N. Please describe the method presently or formerly used to publicize vacant apartments. If advertising is utilized, please indicate every newspaper that T.M.I. has run apartment advertisements in since January, 1968,

whether advertisements have ever been run in newspapers which have predominantly Negro or Puerto Rican audiences, if so, please identify each such newspaper, the approximate frequency of all newspaper advertising and whether T.M.I. advertising now contains or ever contained a fair housing logo. If present-tenant referrals are or were ever used, please indicate whether this is or was ever the exclusive means utilized to rent available apartments. If neither advertising, nor present-tenant referrals are or have ever been utilized, please explain the rental procedures used since January 1, 1968. If any exceptions to the normal rental procedures have been made, please state generally the nature of all such exceptions, the circumstances and the reasons for them, and the name, race, address and employment position of each person who is authorized to make or allow such exceptions;

O. Please indicate the name, race, last known address, job title, job location, dates of employment, immediate supervisor and details of the duties of every person who has had the authority to accept and/or consider and/or act on rental applications since January 1, 1968;

P. Please describe in detail the supervision that officers of T.M.I. or other T.M.I. personnel maintain over the persons referred to in Interrogatory No. 5 (O)

and whether they have ever instructed these persons to maintain racial records or use racial codes for any purpose.

6. With respect to each apartment building owned and/or managed, in whole or in part, by any of the defendants, please state:

A. Whether there has ever been in effect a policy to refuse to accept, or to dissuade applications for tenancy from certain classes of persons because of their race, color or national origin. If so, please state why such a policy was maintained;

B. If such a policy was maintained, please state whether it has been changed, the nature of the change, the reasons for making a change and when the change was made. Please state in detail any steps taken to implement the policy, including but not necessarily limited to, instructions to resident managers, rental agents and other personnel.

7. Please state the name, race and last known address of all employees of T.M.I. employed for any period of time, since January 1, 1968, including for each employee listed, the job title, job location, dates of employment and details of their duties. (It is unnecessary to duplicate any information which has been provided in response to Interrogatory 5 (0)).

8. Please state whether any of the defendants have ever had a policy not to employ Negroes or members of any racial or ethnic group, or to consider race or national origin

in any manner in relation to employment. If race or national origin are considered, please state in detail all pertinent circumstances surrounding this policy. Has there ever been a change in this policy? If so, please explain in detail including the reasons for this change.

9. Please state the name and address of each black and Puerto Rican individual who has applied for a position of any kind with T.M.I. in the past three years, and indicate the disposition of each such application. For each individual whose application for employment was rejected, please state the reason(s) for the rejection.

10. Please describe in detail the nature and location of all T.M.I. rental records since January 1, 1969, in defendants custody or control including applications for tenancy, records of action taken therein, correspondence, daily telephone logs and waiting lists. Are you willing to allow representatives of the plaintiff to inspect and copy any or all of these documents without an Order of the Court under Rule 34 of the Federal Rules of Civil Procedures? Please state if any records have been destroyed since January 1, 1968, and, if so, the date, circumstances and reason for such destruction.

11. Please provide the name, address, apartment number, and date of occupancy of each black tenant presently living, or who has lived in the past five years, in any apartment buildings owned and/or managed in whole or in part, by T.M.I. and which now has a black population of less than 10%. For each tenant, please indicate if the individual had been placed

on a waiting list prior to being leased an apartment, and if so, for how long the tenant's name had been on a waiting list.

12. Please describe in detail what positive steps, if any, each of the defendants has taken to promote equal housing opportunity after being contacted by the United States Department of Justice in October, 1972.

13. Please state the name, address and race of every person who has, to the knowledge of any owner or agent of T.M.I., made a complaint, */ oral or written, to or about T.M.I. regarding racial discrimination in employment or housing by T.M.I., by any agent of or any person having an ownership interest in T.M.I., or by any representatives of T.M.I., since January 1, 1960. If so, please state the name, address and race of every complainant, the details of the complaint, to whom it was made, the name, race, address and job title of the person(s) representing T.M.I. who dealt in any way with the complaint and the disposition of the matter. With respect to this Interrogatory, please give all details of each such incident including, but not necessarily limited to:

- A. Complaints made directly to T.M.I. or to any person having an ownership interest in T.M.I.;
- B. Complaints made to the owners or the representatives of the owners of any building managed by

*/: As used herein, "complaint" refers to any information suggesting or alleging actual or possible discrimination.

T.M.I. or by any person with an ownership interest in T.M.I.;

C. Complaints made to any federal, state or local agency such as the New York City Human Rights Commission or to any local civil rights or fair housing organizations, including, but not limited to the Urban League, N.A.A.C.P., A.C.L.U., etc.

14. Please indicate whether any persons have ever been accepted as tenants to any building owned and/or managed in whole or in part by T.M.I. after having initially been rejected and/or after having made a complaint (as that word is used in the preceding Interrogatory) concerning discriminatory rental practices by T.M.I. or its agents? If so, please give all details of each such incident, including, but not necessarily limited to:

A. The name, race and address of each person whose application for tenancy was originally rejected;

B. The dates of original application, rejection, later acceptance and the date tenancy commenced;

C. The names of all T.M.I. personnel involved;

D. The reason(s) the application was originally denied;

E. The reason(s) the application was subsequently approved.

15. Please state the name, address, race and occupation of each person interviewed by you or on your behalf in relation to this case. Please state separately the name, address, race and occupation of any person not interview by

you or on your behalf but whom you intend to interview,
or who has information with respect to any facts pertinent
to this case.

16. If the answers to any of these Interrogatories
are not known to you or to any of your representatives, please
state the name, address, race and occupation of any person,
whom you believe may have knowledge or information requested
in a specific Interrogatory.

Please take notice that a copy of such answers
must be served upon the undersigned within thirty days after
service of the foregoing interrogatories.

Respectfully submitted,

Frank E. Schwelb

ROBERT MORSE
United States Attorney

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice

Elyse S. Goldweber

ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice

CERTIFICATE OF SERVICE

I hereby certify that on November 7, 1973, copies of the foregoing Plaintiff's First Interrogatories to Defendants were placed in the United States first-class mail, postage-prepaid, addressed to:

Michael Rosen, Esquire
Saxe, Bacon, Bollen and Manley
39 East 68th Street
New York City, New York 10021

Elyse S. Goldweber
ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ NOV 26 1973 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- x
UNITED STATES OF AMERICA :
-against- :
FRED C. TRUMP, DONALD TRUMP, :
and TRUMP MANAGEMENT, INC., :
Defendants. :
----- x

TIME A.M.
P.M.

STIPULATION

Civil Action File
No. 73 C 1529

IT IS HEREBY STIPULATED AND AGREED, by and between
the United States Attorney for the Eastern District of New York,
attorney for the plaintiff, and Saxe, Bacon, Bolan & Manley,
attorneys for the defendants, that the defendants' time within
which to answer or otherwise move with respect to the complaint
be, and the same hereby is extended to and including December 3,
1973.

Dated: New York, New York
November 21, 1973

ROBERT A. MORSE
United States Attorney
Eastern District of New York
Attorney for Plaintiff

By: Henry A. Buckel
Assistant U.S. Attorney

SAXE, BACON, BOLAN & MANLEY
Attorneys for Defendants

By: Jeffrey A. Shuman

SO ORDERED

Dated: BROOKLYN, NEW YORK
NOVEMBER 23, 1973
Edward R. Neibey
U.S. D. J.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

S. D. DISTRICT COURT E.D. N.Y.
NOV 30 1973
TIME CAL.

UNITED STATES OF AMERICA,

STIPULATION

-against-

FRED C. TRUMP, DONALD TRUMP, and
TRUMP MANAGEMENT, INC.,

FILED
IN CLERK'S OFFICE
DISTRICT COURT E.D. N.Y.
Civil Action File
No. 73 C 1529
★ DEC 4 1973 ★
TIME A.M.
: P.M.

Defendants.

IT IS HEREBY STIPULATED AND AGREED, by and between
the United States Attorney for the Eastern District of New York, attorney
for the United States of America, and Saxe, Bacon, Bolan & Manley,
attorneys for the defendants, that the defendants' time within which to
answer or otherwise move with respect to the complaint be and the same
hereby is extended to and including December 10th, 1973.

DATED: NEW YORK, NEW YORK
November 30, 1973

Robert A. Morse
United States Attorney
Eastern District of New York
Attorney for the United States
of America

By Robert A. Morse

SO ORDERED

Dated: BROOKLYN, NEW YORK
NOVEMBER 30, 1973
Edward R. Kealhe
U.S. D. J.

Saxe, Bacon, Bolan & Manley
Attorneys for Defendants

By Edward R. Kealhe

7



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- x
UNITED STATES OF AMERICA

-against-

FRED C. TRUMP, DONALD TRUMP
and TRUMP MANAGEMENT, INC.,

Defendants.

AFFIDAVIT IN SUPPORT OF
DEFENDANTS' MOTION TO
DISMISS OR FOR A MORE
DEFINITE STATEMENT

Civ. Action File
No. 73 C 1529

----- x
STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

DONALD TRUMP, being duly sworn, deposes and says:

I am a defendant in the above-entitled action and am associated with Trump Management, Inc., also a defendant. I make this affidavit in support of our motion to dismiss the Government's complaint for failure to state a claim or for a more definite statement.

On the morning of October 15th while listening to the news on car radio, I was shocked to hear that the Government was bringing an action against me, my father, and Trump Management for bias in renting our apartments. I have never, nor has anyone in my organization ever, to the best of my knowledge, discriminated or shown bias in the renting of our apartments. The news report was all the more shocking inasmuch as I had not to that point received any formal communication from the Government whatever, regarding the subject matter of the action. In fact, the first I heard about it was on my car radio the morning of the 15th.

Later that day on television news reports and the next day, on the front page of the New York Times and in the Daily News, there were headline stories stating that we had been charged with bias in renting our apartments. Again, still no word from the Government itself. It was not until the 17th that the Summons and Complaint were finally served.

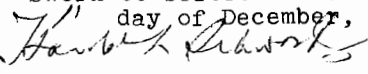
I have always tried to see to it that buildings which we own and manage are well run and that there is equal opportunity for anyone to rent apartments. We have always maintained the respect and admiration of not only our tenants, but the community as a whole.

As a direct result of the Government's unwarranted and unfounded charges made public, we have suffered substantial damage to our business and reputation. As is set out in the Memorandum of Law and Roy M. Cohn's affidavit, there is no one single fact alleged, not a date, year, apartment location, not an employee's name mentioned. We cannot answer charges against us when we do not know upon what grounds they are made, and to find our name blackened in the press before we had received formal notification and had an opportunity to have a trial or even answer is unfair and unjust.

When these stories hit the national wire services, I received many calls and letters of surprise from tenants and community leaders expressing their shock and disbelief that our organization should be charged with such outrageous lies. The fact is that our apartments have the same ratio of minority tenants as exists in the community as a whole. Our organization has never discriminated and does not now discriminate.



Donald Trump

Sworn to before me this
day of December, 1973


HAROLD I. SCHWARTZ
Notary Public, State of New York
No. 31,887,2220, County of New York
Qualified in New York
Commission Expires March 30, 1981

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- x

UNITED STATES OF AMERICA

-against-

AFFIDAVIT

Civ. Action File
No. 73 C 1529

FRED C. TRUMP, DONALD TRUMP and
TRUMP MANAGEMENT, INC.,

Defendants.

----- x

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

ROY M. COHN, being duly sworn, deposes and says:

I am a partner in the firm of Saxe, Bacon, Bolan & Manley, attorneys for defendants in the above-entitled action, and am familiar with the facts and circumstances herein.

I make this affidavit in support of our motion to dismiss the complaint for failure to state a claim upon which relief can be granted or for a more definite statement. The Government has failed to allege even one fact in the complaint upon which a cause of action could be granted and it appears certain that they will be entitled to no relief. Under Federal Rules of Civil Procedure, Rule 12(b), a motion may be made to dismiss the complaint for failure to state a claim upon which relief can be granted. The Government's complaint recites the statutes alleged to have been violated verbatim with no factual allegations to support the complaint.

On October 16, 1973, the Government announced the filing of their suit in the Daily News with banner headlines stating that the United States Charges Bias. Similar headlines appeared on the front page of the New York Times. They attempted to bring

unlawful and undue pressure upon the defendants to settle this case. The Government has no facts to support the charges. If they did, they would be stated in the complaint. This action was brought to coerce the defendants into making a settlement and nothing more. The request for interrogatories served upon defendants by the Government makes it evident that this is a form of harassment and that the Government is merely "fishing" for facts upon which it can base its case. These facts do not exist and the Government knows they do not exist.

In the alternative, I request that a sufficiently full, definite, certain and specific complaint be served upon defendants so that they may prepare their answer and prepare for trial. The Federal Rules of Civil Procedure provide for such a motion and such a motion is the proper method of obtaining a fuller statement of a cause of action. Rule 12(e) of the Federal Rules of Civil Procedure states:

" . . . if a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading he may move for a more definite statement before interposing his responsive pleading. The motion shall point out the defects complained of and the details desired. . . "

As has been set forth above and as the complaint attached hereto clearly shows, the defendants are unable to properly answer the charges alleged therein and a more definite statement of these charges should be required.

This case represents an abuse of process. The Civil Rights Division did not file a lawsuit. It slapped together a piece of paper for use as a press release, and only secondarily as a court document. It contains not one fact concerning the discriminatory practices against blacks by the Trump organization

It does not name one single building in which any improper practices were directed. It not only contains no statement of days or months, but believe it or not, it does not even designate any year. What was done was simply to copy verbatim the language of the statute, and add the name of the Trump organization, because it is one of the largest in its field. If a private litigant filed such a paper, it would be summarily dismissed, with costs to the defendants. The Civil Rights Division's conduct after the filing of this threadbare document is even more outrageous. They immediately approached the defendants to quickly terminate the litigation by entering into a "consent" decree dictated by the Civil Rights Division! This would undoubtedly have resulted in the next press release -- that one announcing the capitulation of the defendants and the substitution of the Welfare Department for the management corporation. Such a capitulation would have been a surrender under pressure of the rights of the defendants, who have established an efficient organization which has contributed substantially to community life on all levels for many years. It would have been a surrender of the interests of our tenants -- past, present and future -- who are entitled to the maintenance of the type service we offer -- not subservience to the Welfare Department.

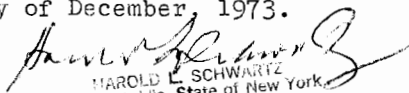
When it became apparent that we would not accept this "capitulation" an amazing thing occurred. Realizing that it had no case, the Civil Rights Division served us with fifteen pages of interrogatories, asking such question as the "number of persons per month, by race, making inquiries concerning the availability of an apartment . . ." (Pltf's first interrogatories to Def. p. 4, 5, F); the name of any credit reporting company

used and the dates of their service (p.5, J); "State the monthly rental rates for efficiencies, one, two and three-bedroom apartments. Indicate whether there have been any increases or decreases in these rental rates since January 1, 1968, and, if so, the reasons for such changes. State this information for each complex owned and/or managed by T.M.I. "(p. 8,M); and "Indicate the name, race, last known address, job title, job location, dates of employment, immediate supervisor and details of the duties of every person who has had the authority to accept and/or consider and/or act on rental applications since January 1, 1968 (p.9, 0).

The reading of the Bill of Particulars which is attached hereto in effect, asks us to go out and make an investigation as to whether any of our employees had ever had a disagreement against anyone. In other words, after having smeared us on the front page of the New York Times with an amorphous complaint, the Government is now asking us to find out whether there could have been any truth to it. Our top management was never even questioned in advance of the charges or given the opportunity to show that we do not employ discriminatory practices.

I respectfully urge that these defendants do not discriminate in the renting of their apartments and that the Government's charges are totally unfounded. The complaint, which shows no facts, and the publicity which was released by the Government and has damaged the defendants was all geared to force the defendants to compromise their rights for fear of Government reprisal.

Sworn to before me this 11th
day of December, 1973.


HAROLD L. SCHWARTZ
Notary Public, State of New York,
No. 31-8872220
Qualified in New York County
Commission Expires March 30, 1984


ROY M. COHN

Trump

Major Landlord Accused Of Antiblack Bias in City

By MORRIS KAPLAN

The Department of Justice, and we've won them all. We charging discrimination against blacks in apartment rentals, were charged with discrimination, and we proved in court brought suit in Federal Court that we did not discriminate." in Brooklyn yesterday against Mr. Trump and his father, the Trump Management Corporation, Fred C. Trump, the principal a major owner and manager of real estate here. stockholder and corporate board chairman, were also

The corporation, which owns named as defendants. They are and rents more than 14,000 required to respond to the apartments in Brooklyn, Queens complaint within 20 days. The and Staten Island, was accused Trump family has been in the of violating the Fair Housing real-estate business for more Act of 1968 in its operation of than 40 years.

39 buildings. Most are in Coney In Washington, J. Stanley Island, Brooklyn, and in Jamaica Pottinger, assistant attorney Estates and Forest Hills, general in charge of the Justice Queens. Department's civil-rights division, termed the suit the second

Seeking an injunction to halt alleged discriminatory practices, the Government contended that Trump Management had refused to rent or negotiate rentals "because of race and color." It also charged that the company had required different rental terms and conditions because of race and that it had misrepresented to blacks that apartments were not available.

At the corporation's main office, 600 Avenue Z in Brooklyn, Donald Trump, president, denied the charges.

"They are absolutely ridiculous," he said. "We never have discriminated, and we never would. There have been a number of local actions against us,

Mr. Trump and his father, Fred C. Trump, the principal stockholder and corporate board chairman, were also named as defendants. They are required to respond to the complaint within 20 days. The Trump family has been in the real-estate business for more than 40 years.

The first involved Samuel J. Lefrak, one of the country's

Continued on Page 72, Column 2

U.S. Accuses Major Landlord of Bias

Continued From Page 1, Col. 5 largest builders. The Justice Department had charged racial discrimination in the renting of 21,000 Lefrak-controlled apartments in 150 buildings in Brooklyn and Queens.

Agreement With Lefrak

That case was resolved on Jan. 28, 1971, in an agreement between the Justice Department and the Lefrak Organization. Lefrak promised to prohibit discrimination in apartment rentals, and subsequently

fifty black families were assisted in moving into predominantly white buildings.

The New York Urban League, whose Operation Open City had filed complaints against the Lefrak Organization, called the agreement "a great disappointment" to numerous other blacks and Puerto Ricans "who for years have been denied an equal chance at Lefrak's housing units." Occupancy by blacks and Puerto Ricans has risen "substantially" at Lefrak buildings since

then, according to Mr. Pottinger.

He said the Trump case had been referred to the Justice Department by the New York City Commission on Human Rights and was based, in part, on allegations made by Operation Open City. Specific violations were not mentioned in the complaint.

The average monthly rental for a one-bedroom apartment in the Trump "villages" is about \$250, according to the younger Trump. A two-bedroom rental is about \$290.

VA

NEWS OF BROOKLYN

For Daily Home Delivery Call 453-0320

DAILY NEWS, TUESDAY, OCTOBER 16, 1973 ** 33

U.S. Suit Against Trump Charges Bias in Renting

By ROBERT KAPPSTATTER

Charging discrimination against blacks, the U.S. Department of Justice filed a civil suit yesterday against the Trump Management Corp., which owns and operates more than 14,000 apartments in Brooklyn, Queens and Staten Island.

The suit charges specifically that the firm refused to rent or negotiate renting units with blacks; that it required different rental terms and conditions because of race, and that it misrepresented to blacks that apartments were not available. The suit asks Brooklyn Federal Court to order the alleged discrimination ended.

Named as defendants in the suit, beside the firm, were Donald Trump, president and his father Fred, the principal stockholder and chairman of the board. The Trumps, who own and operate 39 apartment buildings, most of them in Coney Island, Jamaica Estates and Forest Hills, were charged with violating the Fair Housing Act of 1968.

Second Such Action

Donald Trump flatly denied the charges yesterday, stating: "They are absolutely ridiculous. We never have discriminated and we never would."

The suit was the second major rental-discrimination action in the

metropolitan area filed by the department in the last two years.

The first, against Life Realty, an arm of the Samuel Lefrak organization, ended with a consent decree in which the firm agreed to rent more units to members of minority groups.

Announcing the filing of the suit in Washington, J. Stanley Pottinger, the assistant attorney general in charge of the civil rights division, said the Trump case was originally referred to his office by the New York City Human Rights Commission.

"We've Won Them All"

It was based in part, he said, on allegations made by Operation Open City, an affiliate of the Urban League.

The younger Trump said "There have been a number of local actions against us and we've won them all. We were charged with discrimination and we proved in court that we did not discriminate."

Attorneys for the firm, whose main office is at 600 Avenue Z,



Fred Trump

Brooklyn, have 60 days to answer the charges made by the government.

B

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 FRED C. TRUMP, DONALD)
 TRUMP and TRUMP MANAGEMENT)
 INC.,)
)
 Defendants.)

CIVIL ACTION NO. 73 C 1529

PLAINTIFF'S FIRST
INTERROGATORIES TO
DEFENDANTS

TO THE DEFENDANTS, FRED C. TRUMP, DONALD TRUMP, AND TRUMP
MANAGEMENT INC.:

Plaintiff requests that the defendants answer each
Interrogatory separately and fully, in writing and under
oath, in accordance with Rule 33 of the Federal Rules of
Civil Procedure. If the information requested by any Inter-
rogatory is contained in documents, papers or records in the
custody of the defendants, you may so indicate and answer
that Interrogatory by attaching copies of such documents or
papers to your answers and by indicating the Interrogatory to
which those documents or papers are deemed responsive. In
the alternative, you may answer that Interrogatory by identify-
ing those documents, papers or records in which the answer is
contained and specifying the location of the documents, papers
or records, and making the same available to Plaintiff to inspect,
copy or photograph.

These Interrogatories call for all information available to the defendants, their employees and agents, and the officers of defendant Trump Management Inc., with respect to the subject matter into which they inquire. If some of the information is known or available to a particular officer, employee or agent, and other information is available to another officer, employee or agent, please include in your answers all information known to each officer, employee or agent, and please specify which officer, employee or agent provided information with respect to each answer:

1. Please state the name, race and address of all persons who own stock or who have any other ownership interest, direct or indirect, in Trump Management Inc. [hereinafter referred to as "T.M.I."] and the date they acquired such interest.

2. Please state the date and place of incorporation of T.M.I. and the name, race and address of each officer of the corporation. Please specify each officer's duties.

3. Please state whether any person with an interest in T.M.I., as described in the above two Interrogatories, directly or indirectly supervises the management of the apartments owned and/or managed by T.M.I. If so, please identify the person or persons with such supervisory duties and explain in detail those duties performed.

4. Please state whether any person with an ownership or management interest in T.M.I., owns any interest, direct or indirect, in any other real estate development, management or

promotion company. If so, please identify each such real estate interest and its location. In the case of any other apartment complex in which an interest is held by such person, or which is owned by a company in which such person owns an interest, please indicate the total number of units at each said apartment complex and the number of units at each said apartment complex that are occupied by Negro */ persons.

5. Please state the name and address of each apartment building or real estate development owned and/or managed, in whole or in part, by T.M.I. at anytime since January 1, 1968 and with respect to each, please state the following information:

- A. The date the apartment or development opened for occupancy;
- B. The number of efficiencies, one-bedrooms, two-bedrooms, and three-bedrooms in each building;
- C. The number of units in each building occupied by Negroes as of January 1, 1968, January 1, 1969 and as of the present time. Please identify each individual by name, address and dates of occupancy;
- D. Please indicate the date the first Negro tenant, other than an employee of T.M.I., moved into each building;
- E. Please set forth the number of apartment units which became available for rental, by size, **/

*/ In each Interrogatory requesting information concerning Negroes please also indicate the same information for Puerto Ricans.

**/ For example, one-bedrooms, two-bedrooms, etc.

per month, between January 1, 1969 and November 1, 1973;

F. Please state the number of persons per month, by race, making inquiry concerning the availability of an apartment between January 1, 1969, and the present. Please also state the number of people who submitted applications for an apartment during the same period of time. If exact figures are not reasonably available, please provide estimates or approximations. In any event, please state the basis for the figures provided;

G. Whether a formal, written application is required of every prospective tenant and, if so, whether any exceptions are made to this general policy. If exceptions are made, please state how frequently they are made, why exceptions are made and the name, race, address and job title of every person who has the authority to make these exceptions. If any applicant has been accepted as a tenant without submitting a formal written application in the past three years, */ please indicate the tenant's name, race, address and the circumstances surrounding the rental of the apartment. Please state how long applications for apartments are retained on file.

*/ The term "past three years" used throughout these Interrogatories means the period of time between November 1, 1970 and November 1, 1973.

If you are willing to do so, please attach copies of such application forms to your answers to these Interrogatories;

H. The maximum, average, and minimum length of time required for the processing of tenant applications. Please state what factors have affected or presently affect the time required for the processing of individual applications;

I. Please indicate what qualifications have been or are required for an applicant to be accepted as a tenant in terms of income, credit standing, age, education, family status, children, or any other factors which may be taken into account in deciding whether to accept or reject an applicant. If exceptions to these qualifications are made, please state how frequently they are made, why exceptions are made and the name, race, address and job title of every person who has the authority to make these exceptions. If any applicant has been accepted as a tenant without meeting these requirements in the past three years, please indicate the tenant's name, race, address and the circumstances surrounding the rental of the apartment;

J. Please state whether credit or background checks are or have been obtained in the past three years on every prospective tenant and, if so, whether any exceptions are made

Please describe the conditions which must be met before an applicant's name goes on the waiting list, how often the list is updated and the average number of persons on the list at any one time. Please state whether all new tenants are selected from the waiting list or whether exceptions are made to rent to individuals not on the list. If exceptions are made, please state how frequently they are made, why exceptions are made and the name, race, address and job title of every person who has the authority to make these exceptions. (If no central waiting list is maintained, please state the information requested above separately for each apartment building that utilizes a waiting list.) Please list the name, race and address of the last ten tenants (if applicable) who were rented an apartment while a waiting list was maintained, but whose names were not on a waiting list.

If you are willing to do so, would you please attach a copy of the waiting lists used since January 1, 1970, including the name, address, race and date of application of each prospective tenant. In the alternative, are you willing to allow representatives of the plaintiff to inspect and copy these documents without an Order of the Court under Rule 34 of the Federal Rules of Civil Procedure.

L. Please state whether a security deposit is required of every prospective tenant and, if so, whether any exceptions are made to this general policy. If exceptions are made, please indicate how frequently they are made, why exceptions are made and the name, race, address and job title of every person who has the authority to make these exceptions. If any applicant has been accepted as a tenant without submitting a security deposit in the past three years, please indicate the tenant's name, race, address and the circumstances surrounding the rental of the apartment. Please indicate the amount of security deposit required and whether it is required the time of application or whether it may be submitted subsequent to the formal application;

M. Please state the monthly rental rates for efficiencies, one, two and three-bedroom apartments. Please indicate whether there have been any increases or decreases in these rental rates since January 1, 1968, and, if so, the reasons for such changes. Please state this information for each complex owned and/or managed by T.M.I.;

N. Please describe the method presently or formerly used to publicize vacant apartments. If advertising is utilized, please indicate every newspaper that T.M.I. has run apartment advertisements in since January, 1968,

whether advertisements have ever been run in newspapers which have predominantly Negro or Puerto Rican audiences, if so, please identify each such newspaper, the approximate frequency of all newspaper advertising and whether T.M.I. advertising now contains or ever contained a fair housing logo. If present-tenant referrals are or were ever used, please indicate whether this is or was ever the exclusive means utilized to rent available apartments. If neither advertising, nor present-tenant referrals are or have ever been utilized, please explain the rental procedures used since January 1, 1968. If any exceptions to the normal rental procedures have been made, please state generally the nature of all such exceptions, the circumstances and the reasons for them, and the name, race, address and employment position of each person who is authorized to make or allow such exceptions;

O. Please indicate the name, race, last known address, job title, job location, dates of employment, immediate supervisor and details of the duties of every person who has had the authority to accept and/or consider and/or act on rental applications since January 1, 1968;

P. Please describe in detail the supervision that officers of T.M.I. or other T.M.I. personnel maintain over the persons referred to in Interrogatory No. 5 (O)

and whether they have ever instructed these persons to maintain racial records or use racial codes for any purpose.

6. With respect to each apartment building owned and/or managed, in whole or in part, by any of the defendants, please state:

A. Whether there has ever been in effect a policy to refuse to accept, or to dissuade applications for tenancy from certain classes of persons because of their race, color or national origin. If so, please state why such a policy was maintained;

B. If such a policy was maintained, please state whether it has been changed, the nature of the change, the reasons for making a change and when the change was made. Please state in detail any steps taken to implement the policy, including but not necessarily limited to, instructions to resident managers, rental agents and other personnel.

7. Please state the name, race and last known address of all employees of T.M.I. employed for any period of time, since January 1, 1968, including for each employee listed, the job title, job location, dates of employment and details of their duties. (It is unnecessary to duplicate any information which has been provided in response to Interrogatory 5 (0)).

8. Please state whether any of the defendants have ever had a policy not to employ Negroes or members of any racial or ethnic group, or to consider race or national origin

in any manner in relation to employment. If race or national origin are considered, please state in detail all pertinent circumstances surrounding this policy. Has there ever been a change in this policy? If so, please explain in detail including the reasons for this change.

9. Please state the name and address of each black and Puerto Rican individual who has applied for a position of any kind with T.M.I. in the past three years, and indicate the disposition of each such application. For each individual whose application for employment was rejected, please state the reason(s) for the rejection.

10. Please describe in detail the nature and location of all T.M.I. rental records since January 1, 1969, in defendants custody or control including applications for tenancy, records of action taken therein, correspondence, daily telephone logs and waiting lists. Are you willing to allow representatives of the plaintiff to inspect and copy any or all of these documents without an Order of the Court under Rule 34 of the Federal Rules of Civil Procedures? Please state if any records have been destroyed since January 1, 1968, and, if so, the date, circumstances and reason for such destruction.

11. Please provide the name, address, apartment number, and date of occupancy of each black tenant presently living, or who has lived in the past five years, in any apartment buildings owned and/or managed in whole or in part, by T.M.I. and which now has a black population of less than 10%. For each tenant, please indicate if the individual had been placed

on a waiting list prior to being leased an apartment, and if so, for how long the tenant's name had been on a waiting list.

12. Please describe in detail what positive steps, if any, each of the defendants has taken to promote equal housing opportunity after being contacted by the United States Department of Justice in October, 1972.

13. Please state the name, address and race of every person who has, to the knowledge of any owner or agent of T.M.I., made a complaint, */ oral or written, to or about T.M.I. regarding racial discrimination in employment or housing by T.M.I., by any agent of or any person having an ownership interest in T.M.I., or by any representatives of T.M.I., since January 1, 1960. If so, please state the name, address and race of every complainant, the details of the complaint, to whom it was made, the name, race, address and job title of the person(s) representing T.M.I. who dealt in any way with the complaint and the disposition of the matter. With respect to this Interrogatory, please give all details of each such incident including, but not necessarily limited to:

A. Complaints made directly to T.M.I. or to any person having an ownership interest in T.M.I.;

B. Complaints made to the owners or the representatives of the owners of any building managed by

*/ As used herein, "complaint" refers to any information suggesting or alleging actual or possible discrimination.

T.M.I. or by any person with an ownership interest in T.M.I.;

C. Complaints made to any federal, state or local agency such as the New York City Human Rights Commission or to any local civil rights or fair housing organizations, including, but not limited to the Urban League, N.A.A.C.P., A.C.L.U., etc.

14. Please indicate whether any persons have ever been accepted as tenants to any building owned and/or managed in whole or in part by T.M.I. after having initially been rejected and/or after having made a complaint (as that word is used in the preceding Interrogatory) concerning discriminatory rental practices by T.M.I. or its agents? If so, please give all details of each such incident, including, but not necessarily limited to:

A. The name, race and address of each person whose application for tenancy was originally rejected;

B. The dates of original application, rejection, later acceptance and the date tenancy commenced;

C. The names of all T.M.I. personnel involved;

D. The reason(s) the application was originally denied;

E. The reason(s) the application was subsequently approved.

15. Please state the name, address, race and occupation of each person interviewed by you or on your behalf in relation to this case. Please state separately the name, address, race and occupation of any person not interviewed by

you or on your behalf but whom you intend to interview, or who has information with respect to any facts pertinent to this case.

16. If the answers to any of these Interrogatories are not known to you or to any of your representatives, please state the name, address, race and occupation of any person, whom you believe may have knowledge or information requested in a specific Interrogatory.

Please take notice that a copy of such answers must be served upon the undersigned within thirty days after service of the foregoing interrogatories.

Respectfully submitted,

Frank E. Schwelb

ROBERT MORSE
United States Attorney

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice

Elyse S. Goldweber

ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice

CERTIFICATE OF SERVICE

I hereby certify that on November 7, 1973, copies of the foregoing Plaintiff's First Interrogatories to Defendants were placed in the United States first-class mail, postage-prepaid, addressed to:

Michael Rosen, Esquire
Saxe, Bacon, Bollan and Manley
39 East 68th Street
New York City, New York 10021

Elyse S. Goldweber

ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

United States District Court

FOR THE

EASTERN DISTRICT OF NEW YORK

CIVIL ACTION FILE NO.

UNITED STATES OF AMERICA,

730 1529

Plaintiff

SUMMONS

v.

FRED C. TRUMP, DONALD TRUMP
and TRUMP MANAGEMENT, INC.,

Defendants

To the above named Defendant :

You are hereby summoned and required to serve upon ROBERT A. MORSE, United States Attorney for the Eastern District of New York,

plaintiff's attorney , whose address is 225 Cadman Plaza East, Brooklyn, New York, 11201,

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint.

LEWIS ORGEL

Clerk of Court.

157 Linda Lane

Deputy Clerk.

Brooklyn, N.Y.

Date: October 15, 1973

[Seal of Court]

EXH "D"

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,
Plaintiff,

v.

FRED C. TRUMP, DONALD TRUMP
and TRUMP MANAGEMENT INC.,
Defendants.

730 1529

CIVIL ACTION NO. _____

COMPLAINT FOR INJUNCTION
PURSUANT TO FAIR HOUSING
ACT OF 1968, 42 U.S.C.
3601, et seq.

The United States of America alleges:

1. This is an action brought pursuant to 42 U.S.C. 3613 seeking to remedy violations of the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601, et seq.
2. This Court has jurisdiction of this action under 28 U.S.C. 1345 and 42 U.S.C. 3613.
3. Defendant Trump Management Inc., which is a New York corporation, doing business in the Eastern District of New York, manages and operates numerous apartment buildings, totalling at least 14,000 dwelling units in the New York area and elsewhere. Defendant Fred C. Trump is the principal stockholder and Chairman of the Board of Directors of Trump Management Inc. Defendant Donald Trump is president of Trump Management Inc. The defendants Fred C. Trump and Donald Trump transact business in New York and are responsible for the policies and practices of Trump Management Inc.

4. The apartment buildings and complexes managed by Trump Management Inc. are dwellings within the meaning of 42 U.S.C. 3602(b).

5. The defendants, through the actions of their agents and employees, have discriminated against persons because of race in the operation of their apartment buildings, among other ways, by:

(a) Refusing to rent dwellings and negotiate for the rental of dwellings with persons because of race and color, in violation of Section 804(a) of the Fair Housing Act of 1968, 42 U.S.C. 3604(a).

(b) Requiring different terms and conditions with respect to the rental of dwellings because of race and color, in violation of Section 804(b) of the Fair Housing Act of 1968, 42 U.S.C. 3604(b).

(c) Making and causing to be made statements with respect to the rental of dwellings which indicate a preference, limitation and discrimination based on race and color in violation of Section 804(c) of the Fair Housing Act of 1968, 42 U.S.C. 3604(c).

(d) Representing to persons because of race and color that dwellings are not available for inspection and rental when such dwellings are in fact so available, in violation of Section 804(d) of the Fair Housing Act of 1968, 42 U.S.C. 3604(d).

6. The defendants' conduct described in the preceding paragraph constitutes:

(a) A pattern and practice of resistance by the defendants to the full enjoyment of rights secured by Title VIII of the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq.; and

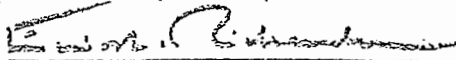
(b) A denial to groups of persons of rights granted by Title VIII of the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq., which denial raises an issue of general public importance.

WHEREFORE the plaintiff prays that the Court enter an Order enjoining the defendants, their employees, agents, and successors and all those in active concert and participation with any of them, from:

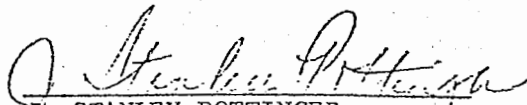
(a) Discriminating against any person on the basis of race, color, religion or national origin, with respect to any right secured by the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq.

(b) Failing or refusing to take adequate affirmative steps to correct the effects of their past discriminatory policies and practices. Plaintiff further prays for such


additional relief as the interests of justice
may require, together with the costs and dis-
bursements of this action.



ELLIOT L. RICHARDSON
Attorney General



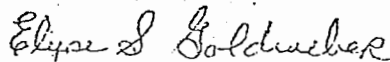
STANLEY POTTINGER
Assistant Attorney General



ROBERT A. MORSE
United States Attorney



FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice



ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.

★ DEC 12 1973 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- . MOTION TO DISMISS
UNITED STATES OF AMERICA, : Civ. Action File No.
 : 73 C 1529
-against- :
FRED C. TRUMP, DONALD TRUMP :
and TRUMP MANAGEMENT, INC. :
----- .

S I R S :

PLEASE TAKE NOTICE, that the undersigned will move
before United States District Judge **NEAHER**, at Room **7**, in the
United States Courthouse, **CADMAN PLAZA**, ~~Foley Square~~, New York, New York, on the **17th**
day of ~~December~~ **January**, 1974, at 10:00 o'clock in the forenoon of that day or as
soon thereafter as counsel can be heard for an order dismissing the complaint
for failure to state a claim upon which relief can be granted or for a more
definite statement and for such other and further relief as to the Court may
seem just and proper in the premises.

This motion is based upon this notice, the affidavits of Donald
Trump and Roy M. Cohn, sworn to the **11th** day of December, 1973, and upon
all the pleadings and proceedings heretofore had herein.

Yours, etc.,

Saxe, Bacon, Bolan & Manley
Attorneys for Defendants

BY *Roy M. Cohn*
Roy M. Cohn
39 East 68th Street
New York, New York 10021
(212) 472 1400

TO: United States Attorney
Eastern District of New York
Attorney for the United States
of America
225 Cadman Plaza East
New York, New York

8

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - -x

MOTION FOR A MORE DEFINITE
STATEMENT

UNITED STATES OF AMERICA

-against-

Civ. Action File
No. 73 C 1529

FRED C. TRUMP, DONALD TRUMP
and TRUMP MANAGEMENT, INC.

- - - - -x

Defendants in the above entitled cause hereby separately and severally move the Court pursuant to the provisions of Rule 12(e) of the Federal Rules of Civil Procedure for the District Courts of the United States that the plaintiff be ordered to furnish a more definite statement with respect to matters alleged in the Complaint herein in each of the following particulars:

1. That with respect to the allegations contained in paragraph 5, page 2 of the complaint plaintiff be required to state the facts supporting their conclusion that defendants violated the Fair Housing Act of 1968, 42 U.S.C. 3604(a), (b), (c) and (d) in the following respects:

- (a) name the employees and agents alleged to have carried out the discrimination for the defendants;
- (b) the exact addresses and locations of the apartment building at which the alleged discrimination occurred;
- (c) the parties to the alleged discrimination;
- (d) the time, giving exact dates, that the alleged discrimination occurred.

2. That with respect to the allegations contained in paragraph 6 page 3 in the complaint, that the plaintiff be required to state the facts supporting the allegations contained in paragraph SIXTH in the following respects:

- (a) name the employees and agents alleged to have carried out the discrimination for the defendants;
- (b) the exact addresses and locations of the apartment building at which the alleged discrimination occurred;
- (c) the parties to the alleged discrimination;
- (d) the time, giving exact dates, that the alleged discrimination occurred.

Dated: New York, New York
December 7, 1973

Saxe, Bacon, Bolan & Manley
Attorneys for Defendants
39 East 68th Street
New York, New York 10021
(212) 472-1400

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA :
 :
 -against- : Civ. Action File
 : No. 73 C 1529
 :
 FRED C. TRUMP, DONALD TRUMP, :
 and TRUMP MANAGEMENT, INC., :
 :
 Defendants. :
 :

MEMORANDUM OF LAW IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS
GOVERNMENT'S COMPLAINT FOR FAILURE
TO STATE A CLAIM OR FOR A MORE
DEFINITE STATEMENT PURSUANT TO
FRCP RULE 12

Preliminary Statement

The Government on or about October 15, 1973, served a summons and complaint upon the defendants. No answer has yet been made. The complaint, which contains six paragraphs, asks for an injunction pursuant to the Fair Housing Act of 1968, but states absolutely no facts upon which the injunction might be granted. There is simply a recitation of the statutes alleged to have been violated. Nowhere in the complaint is there one date, not even a year, nor one address where the alleged violations occurred, not one employee's name who is alleged to have committed the violations. It is for these reasons that no answer can be given and that the defendants are

making this motion to dismiss the complaint. The Government is obviously seeking to have the defendants sign a consent decree by harassing them through unfair and undue publicity. In fact, even before the summons and complaint were served upon defendants, the media publicized nationally news of the charges against defendants. (See affidavit of Donald Trump.) They have even sent to defendants' attorneys a sample consent decree. It is extremely questionable how the Government can enter into any agreement with the defendants when it is apparent that they do not know upon what facts the alleged violations occurred.

The defendants are a large management company and operate buildings in many areas of the city, especially Brooklyn and Queens. The buildings are filled with tenants of many races and nationalities. No attempt whatever to screen prospective tenants according to any racial or religious lines is made. The buildings as a rule are filled with roughly the same percentages of races and religions as the communities in which these buildings are located.

An examination of the complaint immediately discloses that the Government has no facts and knows of no facts to support their complaint. It is completely void of any information which would enable the defendants

to supply an answer or to properly respond.

Issues

There are two issues presented to this Court.

(1) Whether the Government's complaint should be dismissed for failure to state a claim pursuant to Federal Rules of Civil Procedure 12(b)-(6) because of action upon which relief might be granted, and (2) whether a more definite statement should be required pursuant to Federal Rules of Civil Procedure Rule 12(e).

POINT I.

MOTION TO DISMISS COMPLAINT FOR FAILURE
TO STATE A CLAIM SHOULD BE GRANTED

The Government has failed to state a claim upon which a judgment might be rendered and therefore the complaint should be dismissed. Pursuant to Federal Rules of Civil Procedure, Rule 12(b)(6), where the claim has not been adequately stated in the complaint it should be dismissed. In the Government's complaint there are no facts and the allegations are nothing more than "sweeping legal conclusions."

In Pauling v. McElroy, C.A. 1960, 278 F.2d 252, 107 U.S. App. D.C. 372, cert. denied 81 S. Ct. 61, 364 U.S. 835, 5 L. Ed. 2d 60, the Court held that they would not accept "sweeping legal conclusions in the form of factual allegations." In the instant case the Government has not even attempted to make these factual allegations but has relied upon restating the sections of the Fair Housing Law alleged to have been violated. The principal was adopted in McCleneghan v. Union Stock Yards Co. of Omaha (8 Cir. 1962), 298 F.2d 659:

"For the purpose of the motions to dismiss we are to regard as admitted the well pleaded facts of the complaint.... This admission 'does not, of course, embrace sweeping legal conclusions cast in the form of factual allegations.' ... Furthermore, a general allegation of conspiracy without a statement of facts constituting that conspiracy, is only an allegation of a legal conclusion and is insufficient to constitute a cause of action. . ."

See also Stewart v. Havelone, D.C. Neb. 1968, 283 F. Supp. 842, Blackburn v. Fish University, C.A. 6th 1971, 443 F.2d 121; Atlanta Gas Co. v. Southern Natural Gas Co., D.C. Ga. 1972, 338 F. Supp. 1039.

The Government's failure to state even one fact in support of their allegations is really a bald statement that they may have some type of valid claim against defendants and this the courts have held is insufficient. When the complaint contains nothing but a series of broad conclusory statements the complaint should be dismissed. Thurston v. Setab Computer Institute, D.C.N.Y. 1969, 48 F.R.D. 134, Jackson v. Nelson, C.A. 9th 1968, 405 F.2d 872.

In Huey v. Barloga, D.C. Ill. 1967, 277 F. Supp. 864, 871, the Court held that a complaint failed to state a civil rights claim, stating that "although pleadings are given a liberal construction in the federal courts, the rules contemplate some factual statement in support of the claim. General allegations of this kind unsupported by any factual statements have usually been rejected as insufficient. Huey v. Barloga, supra. In Stewart v. Havelone, supra, the Court similarly held that a general allegation of conspiracy without a statement of the facts constituting that conspiracy is only an allegation of a legal conclusion and is insufficient to constitute a claim for relief.

We are presented here with no facts to support the Government's allegations and therefore the complaint should be dismissed.

POINT II.

A MORE DEFINITE STATEMENT IS REQUIRED

The courts have consistently held that Rule 12(e) motions for a more definite statement should be granted when the broad allegations of plaintiff's complaint will permit the Government to conduct a fishing expedition among defendant's records for evidence of misconduct. Cope v. Fuyn Engineering Co., D.C. Pa. 1949, 8 F.R.D. 620.

The allegations herein are extremely vague and sketchy and there is no way in which defendant in responding to the complaint can help formulate the issues in the action at the pleading stage and thereby limit the scope of plaintiff's discovery.

The Government's complaint is so general that it does not even include dates of the alleged violations.

CONCLUSION

In summary, the statute and case law is clear. The complaint should be dismissed for failure to state a claim. The Government has provided no facts whatsoever to support its complaint.

If the Government has these facts, then at the very least, defendants' motion for a more definite statement pursuant to Federal Rules of Civil Procedure 12(e) should be imposed. It is impossible to require the defendants to reply to a complaint couched in vague allegations when no facts are stated.

WHEREFORE, the Government's complaint should be dismissed or a more definite statement required.

Respectfully submitted,

SAXE, BACON, BOLAN & MANLEY
Attorneys for Defendants

Of counsel

Roy M. Cohn

★ DEC 12 1973 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

3 A.M.
P.M.

----- x

UNITED STATES OF AMERICA :

-against- :

FRED C. TRUMP, DONALD TRUMP and
TRUMP MANAGEMENT, INC., :

Defendants. :

----- x

Civ. Action File
No. 73 C 1529

COUNTERCLAIM

AS AND FOR A FIRST DEFENSE AND BY
WAY OF A COUNTERCLAIM

1. On October 16, 1973, the New York Times published a statement containing false and misleading information concerning the suit herein.

2. On October 16, 1973, plaintiff caused the Daily News to publish under banner headlines a story containing information which it knew to be false and misleading and damaging to defendants.

3. Defendants have sustained damages as a result of the plaintiff's untrue and unfair statements to the communications media prior to any formal action on its part. The plaintiff knew the information which it released to be false and misleading.

WHEREFORE, defendants pray that this Court enter an order granting defendants judgment on their counterclaim in the amount of One Hundred Million Dollars (\$100,000,000.00), together with such further relief as the interests of justice may require and the costs and disbursements of this action.

James E. Bolan & Manley
SAXE, BACON, BOLAN & MANLEY
Attorneys for Defendants
Office and Post Office Address
39 East 68th Street
New York, New York 10021

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Bracht

IN THE UNITED STATES DISTRICT COURT FOR THE ~~FILIAL~~
EASTERN DISTRICT OF NEW YORK U.S. DISTRICT COURT E.D. N.Y.

★ JAN 8 1974 ★

TIME A.M. 10:00
P.M. 5:00

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 FRED C. TRUMP, DONALD TRUMP)
 and TRUMP MANAGEMENT, INC.,)
)
 Defendants.)
 _____)

CIVIL ACTION NO. 73 C 1529

NOTICE OF MOTION TO DISMISS
DEFENDANTS' COUNTERCLAIM

S I R S:

PLEASE TAKE NOTICE that plaintiff, United States of America will move this Court, before the Honorable Edward R. Neaher, District Judge at the United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York in Courtroom 9, on the day of January 11, 1974 at 10:00 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard, for an Order dismissing defendants' counterclaim pursuant to Rule 12(b)(6) of the Fed. R. Civ. Proc. on the grounds that:

1. This Court has no jurisdiction over the subject matter of the counterclaim;
2. That the counterclaim fails to state a claim upon which relief can be granted; and for other and further relief that this Court deems just and proper.

Dated: January 4, 1974
Brooklyn, New York

Yours, etc.

Frank E. Schwelb

To: Roy M. Cohn, Esq.
Saxe, Bacon, Bolan
and Manley
39 East 68th Street
New York, New York 10021

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530

Henry A. Brachtel

HENRY A. BRACHTL
Assistant United States
Attorney
Brooklyn, New York

Elyse S. Goldweber

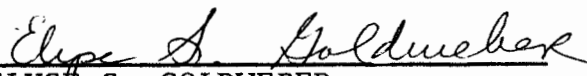
ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530

CERTIFICATE OF SERVICE

I, Elyse S. Goldweber, an attorney for the plaintiff, hereby certify that I have served a copy of the attached Notice of Motion of the United States to dismiss defendants' counterclaim, a copy of the attached Memorandum of the United States in Opposition to Defendants' Motion to Dismiss, Motion for More Definite Statement and in Support of Plaintiff's Motion to Dismiss the Counterclaim and a copy of the attached Memorandum of the United States in Response to the Affidavits of Donald Trump and Roy Cohn on the defendants by mailing a copy, postage prepaid, to their attorney at the following address:

Roy M. Cohn, Esq.
Saxe, Bacon, Bolan & Manley
39 East 68th Street
New York, New York 10021

This, the 4th day of January, 1974.


ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

CIVIL ACTION NO. 73 C 1529

UNITED STATES OF AMERICA

Plaintiff,

v.

FRED C. TRUMP, DONALD TRUMP
AND TRUMP MANAGEMENT INC.,

Defendants.

MEMORANDUM OF THE UNITED STATES IN OPPOSITION TO
DEFENDANTS' MOTION TO DISMISS, MOTION FOR MORE
DEFINITE STATEMENT AND IN SUPPORT OF
PLAINTIFF'S MOTION TO DISMISS
THE COUNTERCLAIM

HENRY A. BRACHTL
Assistant United States
Attorney
Department of Justice
Brooklyn, New York 11201

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

CIVIL ACTION NO. 73 C 1529

UNITED STATES OF AMERICA,
Plaintiff,

v.

FRED C. TRUMP, DONALD TRUMP
AND TRUMP MANAGEMENT INC.,

Defendants.

MEMORANDUM OF THE UNITED STATES IN OPPOSITION TO
DEFENDANTS' MOTION TO DISMISS, MOTION FOR MORE
DEFINITE STATEMENT AND IN SUPPORT OF
PLAINTIFF'S MOTION TO DISMISS
THE COUNTERCLAIM

INTRODUCTORY STATEMENT

The United States initiated this action on October 15, 1973,
pursuant to 42 U.S.C. 3613 */ alleging racial discrimination in
housing. The operative paragraphs of the Complaint allege that:

*/ 42 U.S.C. 3613 provides that the Attorney General may sue when
there has been a "pattern or practice" of discrimination in housing
or where he determines that a denial of equal housing opportunity to
a group of persons raises an issue of general public importance.

"5. The defendants, through the actions of their agents and employees, have discriminated against persons because of race in the operation of their apartment buildings, among other ways, by:

(a) Refusing to rent dwellings and negotiate for the rental of dwellings with persons because of race and color, in violation of Section 804(a) of the Fair Housing Act of 1968, 42 U.S.C. 3604(a).

(b) Requiring different terms and conditions with respect to the rental of dwellings because of race and color, in violation of Section 804(b) of the Fair Housing Act of 1968, 42 U.S.C. 3604(b).

(c) Making and causing to be made statements with respect to the rental of dwellings which indicate a preference, limitation and discrimination based on race and color in violation of Section 804(c) of the Fair Housing Act of 1968, 42 U.S.C. 3604(c).

(d) Representing to persons because of race and color that dwellings are not available for inspection and rental when such dwellings are in fact so available, in violation of Section 804(d) of the Fair Housing Act of 1968, 42 U.S.C. 3604(d)."

"6. The defendants' conduct described in the preceding paragraph constitutes:

(a) A pattern and practice of resistance by the defendants to the full enjoyment of rights secured by Title VIII of the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq.; and

(b) A denial to groups of persons of rights granted by Title VIII of the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq., which denial raises an issue of general public importance."

The defendants have filed Motions to dismiss and, in the alternative, for a more definite statement, alleging that the Complaint fails to state a cause of action and is too vague to enable them to respond. Defendants have also filed what purports to be a counterclaim which seeks damages from the United States in the amount of 100 million dollars. Defendants' counterclaim is grounded on the proposition that plaintiff having no facts to support its charges and having filed an "amorphous" */ complaint, damaged defendants in the amount of 100 million dollars because of the false and misleading information plaintiff conveyed to the New York Times and the Daily News concerning this lawsuit.

DISCUSSION

I. Motion to Dismiss

Defendants claim that the Complaint in this action does not allege facts to support its general allegations, and that it should therefore be dismissed for failure to state a claim upon which relief can be granted. Plaintiff submits that the Complaint conforms to the requirements of F.R.C.P. 8(a) and is sufficient.

*/ Affidavit of Roy Cohn, p.4. Ostensibly in support of their motions and counterclaim, defendants have filed extravagant and misleading affidavits by the defendant Donald Trump and by his counsel which accuse the United States, in the most inflammatory rhetoric, of bringing the suit without grounds, of attempting to "bludgeon" a settlement, and of various other nefarious activities. While these affidavits have nothing to do with any of the motions before the Court, Motions to dismiss and for a more definite statement are predicated on pleadings alone. We respond to them briefly in a separate memorandum in order to set the record straight.

Under the Federal Rules of Civil Procedure "[the] federal courts are not hampered by the morass of decisions as to whether a particular allegation is one of fact, evidence or law . . . There is no requirement that the pleading state 'facts,' or 'ultimate facts,' or 'facts sufficient to constitute a cause of action.'" 2A Moore's Federal Practice ¶813, pp. 1692, 1694. In Conley v. Gibson, 355 U.S. 41, 47-48 (1957), another case of racial discrimination in which defendants filed a motion identical in principle to that filed here, the Supreme Court sustained the Complaint as follows:

The respondents also argue that the complaint failed to set forth specific facts to support its general allegations of discrimination and that its dismissal is therefore proper. The decisive answer to this is that the Federal Rules of Civil Procedure do not require a claimant to set out in detail the facts upon which he bases his claim. To the contrary, all the Rules require is "a short and plain statement of the claim" that will give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests. The illustrative forms appended to the Rules plainly demonstrate this. Such simplified "notice pleading" is made possible by the liberal opportunity for discovery and the other pretrial procedures established by the Rules to disclose more precisely the basis of both claim and defense and to define more narrowly the disputed facts and issues.

The Complaint in this case alleges that the defendants pursue a racially discriminatory policy in the operation of their apartment

buildings. While omitting evidentiary details such as names, dates, places, etc., it clearly advises the defendants of the nature and basic outline of the charges by alleging, in paragraph 5, in "simple, concise, and direct" */ terms four separate categories of the defendants' noncompliance with the Fair Housing Act. It is identical, in terms of nonpleading of evidentiary matter, to a number of other fair housing complaints by the Attorney General brought pursuant to 42 U.S.C. 3613, with respect to which similar motions to dismiss have been uniformly denied. See e.g., United States v. Luebke, 345 F. Supp. 179 (D. Colo. 1972); United States v. Black Jack, Civil Action No. 71-C-372(1), P.H.E.O.H. Rptr. Para. 13,561 (E.D. Mo. March 30, 1972); United States v. Bob Lawrence Realty, Inc., 313 F. Supp. 870 (N.D. Ga. 1970); rel'd order aff'd 474 F. 2d 115 (5th Cir. 1973), cert. den. _____ U.S. _____, 42 L.W. 3195 (Oct. 9, 1973.); United States v. Northside Realty Associates, 324 F. Supp. 287 (N.D. Ga. 1971). **/

*/ FED. R. CIV. P. 8(e)(1).

**/ The Courts have reached the same result in the following unreported cases: United States v. Raymond, Civil Action No. 73-119-CIV-T-H (M.D. Fla. Sept. 5, 1973); United States v. City of Parma, Civil Action No. C-73-439 (N.D. Ohio Sept. 5, 1973); United States v. Robbins, Civil Action No. 73-848 CIV-JE (S.D. Fla. June 22, 1973); United States v. Watson Civil Action No. 73-97 (M.D. La. May 15, 1973); United States v. Pelzer Realty Company, Inc., Civil Action No. 3284-N (M.D. Ala. July 16, 1971); United States v. Davis, Civil Action No. 6451-71 (S.D. Ala. May 18, 1971); United States v. A.B. Smythe, Inc., Civil Action No. C-69-885 (N.D. Ohio Nov. 24, 1970); United States v. Goldberg, Civil Action No. 70-1223-CIV-CF (S.D. Fla. Oct. 19, 1970); United States v. PMC Development Co., Inc. Civil Action No. 13578 (N.D. Ga., July 28, 1970); United States v. Palm (continued on next page)

The same result has been reached in numerous employment discrimination cases. United States v. Georgia Power Company, 301 F. Supp. 538, 541 (N.D. Ga. 1969); United States v. International Brotherhood of Electrical Workers, Local No. 683, 270 F. Supp. 233, 235 (S. D. Ohio 1967); United States v. Building and Construction Trades Council of St. Louis, 271 F. Supp. 447, 452 (E. D. Mo. 1966).

In Conley v. Gibson, supra, the Court said:

" . . . in appraising the sufficiency of the complaint we follow, of course, the accepted rule that a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." 355 U.S. at 45-46.

See also 2A Moore's Federal Practice ¶12.08, p. 2271-2274 and

(continued from previous page)

Beach Listing Bureau, Inc., Civil Action No. 70-379-CIV-CF (S.D. Fla. May 5, 1970); United States v. Miller, Civil Action No. 70-40 (D. Md. April 27, 1970); United States v. H.G. Smithy, Civil Action No. 21470 (D. Md. April 17, 1970); United States v. Management Clearing, Inc., Civil Action No. 70-23-PHX. (CAM) (D. Ariz. April 8, 1970).

Copies of the Complaints and Orders in the above cases have been attached to this memorandum.

cases there collected. */ A Rule 12(b)(6) motion "has the effect of admitting the validity and existence of the claim as stated, but contests plaintiff's right to recover under the law . . . On motion to dismiss, the complaint is to be construed in the light most favorable to the plaintiff." United States v. Georgia Power Company, supra, 301 F. Supp. at 541. In United States v. City of Parma, Civil Action No. 73-439 (N.D. Ohio Sept. 5, 1973), P.H.E.O.H. Rptr. Para. 13,616 the Court, after summarizing the foregoing authorities, added that:

"It is especially in civil rights disputes that we ought to be wary of disposing of the case on pretrial motions and courts do in fact have a predilection for allowing civil rights cases to proceed until a comprehensive record is available to either support or negate the facts alleged." Sisters of Prov. of St. Mary of Woods v. City of Evanston, 335 F. Supp. 396, 399 (N.D. Ill. 1971).

Consistent with the allegations of the complaint, plaintiff is authorized to adduce proof that defendants have refused to rent dwellings on the basis of race, have required different terms and conditions with respect to the rental of dwellings on the basis of race, made discriminatory statements relating to the rental of dwellings and have represented on account of race that dwellings were

*/ The test as to sufficiency laid down by Mr. Justice Holmes in Hart v. B. F. Keith Vaudeville Exchange, 262 U.S. 271 (1923) is whether the claim is wholly frivolous. Radovich v. National Football League 352 U.S. 445 (1957) reh. den. 353 U.S. 931 (1957).

unavailable for rental when such dwellings were in fact so available. Defendants can hardly controvert the proposition that if plaintiff proves its allegations, then the defendants will have been shown to have violated 42 U.S.C. 3604(a) through (d) and plaintiff will be entitled to relief. Conley v. Gibson, supra, Cf. United States v. Georgia Power Company, supra, 301 F. Supp. at 541, 543; United States v. Building and Construction Trades Council of St. Louis, supra, 271 F. Supp. at 452.

The authorities cited by defendants do not even remotely support the proposition that the complaint in this case should be dismissed. While plaintiff's authorities arise out of cases involving complaints and suits virtually identical in principle to those here, defendants' authorities involve entirely different kinds of complaints and issues. Even so, the motions to dismiss in several of defendants' cases were denied, and the propriety of general pleadings which are to be liberally construed was recognized in substantially all of them. In those cases in which the complaints were dismissed, that result rested on considerations demonstrably absent from the instant case.

In Pauling v. McElroy, 278 F. 2d 258 (D.C. Cir. 1955), the Court of Appeals sustained the dismissal of a suit to enjoin nuclear testing on the grounds that the plaintiffs lacked standing. The Court explicitly stated that:

"we need not reach possible questions arising out of the facts, well pleaded or otherwise."
Id at 254.

The Court recognized by way of dictum that a motion to dismiss does not admit "sweeping legal conclusions cast in the form of factual allegations." In the present case, however, we allege, among other things, that defendants have refused to rent to blacks on account of race - a statement of fact pertaining to defendants' policies which can hardly be characterized as a "legal conclusion". Conley v. Gibson, supra. */

Defendants claim to rely on Thurston v. Setab Computer Institute, 48 F.R.D. 134 (S.D. N.Y. 1969). That case involved a pro se complaint which alleged fraud by the defendants but failed to allege any injury resulting from that fraud. Since Rule 9(b), F.R.CIV.P. explicitly requires that in such cases, "the circumstances constituting fraud . . . shall be stated with particularity," the Court, was compelled to dismiss the action, even though it recognized the general liberal rules of pleading described in this memorandum.

*/ The McLeneghan, Stewart, and Atlanta Gas cases purportedly relied on by defendants at pages 4-5 of their brief are apparently cited simply because they contain the same observation about "sweeping legal conclusions" as in Pauling. They are all distinguishable on the same ground as Pauling. In the Blackburn case, the Court declined to "accept as true allegations that are in conflict with facts judicially known to the Court." 443 F. 2d at 123. This is of no help to defendants here, for this Court can hardly take judicial notice without proof that the Trumps do or do not discriminate in their rental practices.

But it is well settled that a civil suit by the Attorney General for racial discrimination is not one for fraud subject to Rule 9(b). As the Court said in United States v. Lynd, 321 F. 2d 26, 27 (5th Cir. 1963), in relying on Conley v. Gibson, supra, to sustain a voting discrimination complaint no more specific than the housing discrimination complaint in this case:

As to the problem of pleading, we adhere to our former ruling that "it is clear that there was no justification for the Court's requiring the government to amend its complaint in this civil rights action to allege specific details of voter discrimination as if this were an action for fraud or mistake under Rule 9, Federal Rules of Civil Procedure."

Accordingly, defendants' analogy to the Thurston decision is unsound.

Finally, defendants cite a group of decisions for the proposition that a general allegation of conspiracy, without more, will not survive a motion to dismiss. */ In the present case, however, no conspiracy is alleged, and it is therefore unnecessary to plead with particularity such items as intentional wrongdoing and overt acts, which are essential to a civil complaint in conspiracy. Huey v. Barloga, supra, 277 F. Supp. at 871-872. The present action alleges housing discrimination, not conspiracy, and it is well established that conduct with a racially discriminatory effect violates the Fair Housing Act, irrespective of motivation. **/

*/ Huey v. Barloga, 277 F. Supp. 864 (N.D. Ill. 1971); Stewart v. Havelone, 283 F. Supp. 842 (D. Neb. 1968).

**/ United States v. Pelzer Realty Co., 484 F. 2d 438 (5th Cir. 1973); United States v. Real Estate Dev. Corp., 347 F. Supp. 776 (N.D. Miss. 1972) and see Griggs v. Duke Power Co., 401 U.S. 424 (1971).

We believe that the foregoing demonstrates that none of the authorities relied on by defendants stands for any proposition at issue in this case. Since complaints such as that in this case have been uniformly sustained in suits by the Attorney General under the Fair Housing Act and similar statutes, the motion to dismiss should be denied.

II. Motion for More Definite Statement

Defendants' Motion for More Definite Statement requests specific facts as to the persons, buildings and dates that were involved in the alleged violations of 42 U.S.C. 3604. Plaintiff submits that such information amounts to evidentiary detail which should be obtained through discovery. Rule 12(e) on which defendants' motion is based, "is designed to strike at unintelligibility rather than want of detail If the pleading meets the requirements of Rule 8 and fairly notifies the opposing party of the nature of the claim, a motion for a more definite statement will not be granted." 2A Moore's Federal Practice ¶12.18, p. 2389, Della Vecchia v. Fairchild Engine Co., 171 F. 2d 610 (2d Cir. 1968). As the Court of Appeals for this Circuit observed in Michael v. Clark Equipment Co., 380 F. 2d 351, 352 (2d Cir. 1967), motions of this kind ostensibly designed to "get the plaintiff's pleading into better shape," are often a waste of time, especially since evidentiary facts can easily be elicited through discovery and frivolous suits disposed of by a motion for summary judgement.

It is not the function of a Motion for a more definite statement to discover evidence. Nixa v. Hayes, 55 F.R.D. 40 (E.D. Wis. 1972). Accordingly, courts have repeatedly held in cases involving racial discrimination that the complaint need not plead evidence. The Complaint in this action is identical, in terms of non-pleading of evidentiary matter, to a number of other fair housing complaints by the Attorney General brought pursuant to 42 U.S. 3613, with respect to which motions for a more definite statement have been filed on a wide variety of grounds. All of these motions have been denied, the Court holding in each instance that additional clarification or evidentiary allegations were unnecessary. See e.g., United States v. Bob Lawrence Realty, Inc., 313 F. Supp. 870 (N.D. Ga. 1970); United States v. Northside Realty Associates, 324 F. Supp. 287 (N.D. Ga. 1971); United States v. City of Black Jack, Civil Action No. 71-C-372(1), P.H.E.O.H. Rptr. Para. 13,561 (E.D. Mo. March 30, 1972); United States v. City of Parma, P.H.E.O.H. Rptr. para. 13,616 (N.D. Ohio 1973). */ As the Court said in Lawrence, supra:

*/ The Courts have reached the same result in the following unreported cases: United States v. Mrs. Dean Miles, et al., Civil Action No. CA-3-7243-E (N.D. Tex. Sept. 5, 1973); United States v. Robbins, Civil Action No. 73-848 CIV-JE (S.D. Fla. June 22, 1973); United States v. Jim Tucker Co., Civil Action No. 72-H-993 (S.D. Tex. Sept. 27, 1972); United States v. J.C. Long, Civil Action No. 71-1262 (D. S.C. April 3, 1972); United States v. Exclusive Multiple Exchange, Civil Action No. C-70-969 (N.D. Ohio Nov. 8, 1971); United States v. Margurette Jones, (Continued on next page)

We conclude further that the complaint, couched as it is in the very language of the statute, provides adequate notice of the claim made by plaintiff and is not subject to a motion for more definite statement. Any additional information to which defendant is entitled may be obtained by use of the discovery procedures provided by the Federal Rules. United States v. Bob Lawrence Realty, Inc., supra, 313 F. Supp. at 873. (emphasis added)

Likewise in employment discrimination cases brought pursuant to 42 U.S.C. 2000e-6, (which has a pattern and practice provision substantially identical to 42 U.S.C. 3613) the courts have denied motions for a more definite statement, holding that the Government's complaints clearly advised the defendants of the nature and basic outline of the charges by alleging categories of noncompliance with the law and not evidentiary details. United States v. Gustin-Bacon Division, 426 F. 2d 539, 543 (10th Cir. 1970), cert. den. 400 U.S. 832 (1970); United States v. Georgia Power Co., supra, 301 F. Supp. at 543-44; United States v. International Brotherhood of Electrical Workers, Local No. 683, 270 F. Supp. 233, 235 (S.D. Ohio 1967);

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Civil Action No. 71-H-279 (S.D. Tex. April 30, 1971); United States v. Chirico, Civil Action No. 70-1851 (E.D. Pa., August 12, 1970); United States v. Gilman, Civil Action No. 70-Civil 1967 (S.D. N.Y. July 28, 1970); United States v. PMC Development Co., Inc., Civil Action No. 13578 (N.D. Ga. July 28, 1970); United States v. Palm Beach Realty Listing Bureau, Inc., Civil Action No. 70-379-CIV-CF (S.D. Fla., May 5, 1970); United States v. Arco Inc., Civil Action No. 70-29 (W.D. Tenn. March 20, 1970).

Copies of the complaints and orders in the above cases have been attached to this memorandum.

United States v. Building and Construction Trades Council of St. Louis, 271 F. Supp. 447, 454 (E.D. Mo. 1966). See also, United States v. Lynd, 321 F. 2d 26, 27 (5th Cir. 1963) (voting discrimination) (district judge abused discretion by granting motion for a more definite statement on theory that voting discrimination case was equivalent to suit for fraud).

It is well settled that "Rule 12(e) does not require the pleader to set out in detail the facts upon which he bases his claim, . . . nor may the Rule be employed as a means of discovery." Michigan Gas & Electric Co. v. American Electric Power Co., 41 F.R.D. 462, 464 (S.D. N.Y. 1966); 4 Moore's Federal Practice §12.18, pp. 2395-96. The test is whether the complaint is "capable of being answered." Acoustica Associates v. Powertron Ultrasonic Corp., 4 F.R. Serv. 2d 12e. 241, case 1 (E.D. N.Y. 1961). Defendants are hardly in a position to claim that a complaint alleging, among other things, that defendants have refused to rent apartments on account of race and have misrepresented their availability on account of race, is incomprehensible to them.

The defendant Donald Trump has denied discrimination in his affidavit. His counsel, Mr. Cohn, has sworn that "it appears certain that they */ will be entitled to no relief" and, further, that:

*/ Although Mr. Cohn consistently refers to the Government in the plural, we expressly disavow the royal "we".

" these defendants do not discriminate in the renting of their apartments and that the Government's charges are totally unfounded."

Being so committed under oath, the defendants can surely answer the Complaint, deny the allegations, and put us to our proof, instead of engaging in the "barristerial shadow boxing" to which motions for a more definite statement are prone. Lincoln Laboratories v. Savage Laboratories, 26 F.R.D. 141, 142-143 (D. Del. 1960).

III. Defendants' Counterclaim

Defendants' purported counterclaim, which is rather cryptically pleaded and has apparently been presented to the Court even though defendants seek dismissal of the main action and have not answered, alleges in substance that plaintiff has defamed defendants by causing two New York newspapers to publish false information about the suit, to defendants' pecuniary damage. It seeks damages in the modest amount of \$100,000,000. On its face, it appears to be a claim for damages for libel or slander. Read in the most generous way possible, and in conjunction with the Cohn and Trump affidavits, it could conceivably be construed as alleging abuse of process. Either way, the Court has no jurisdiction of the claim, and it should be dismissed as the United States is not subject to suit for damages for libel, slander, or abuse of process. 28 U.S.C. 2680(h).

This Court's jurisdiction to grant relief against the United States "depends wholly upon the extent to which the sovereign has waived its immunity to suit, and such waiver cannot be implied but must be unequivocally expressed." United States v. Sherwood, 312 U.S. 584 (1941); United States v. King, 395 U.S. 1, 4 (1969); United States v. Clark, 8 Peters. 436, 33 U.S. 436 (1834).

Despite the express requirement of Rule 8(a) that a counterclaim contain "a short and plain statement of the grounds upon which the court's jurisdiction depends," defendants' counterclaim contains no such statement. The reason is plain: this Court has no jurisdiction of defendants' claim.

Under the Federal Tort Claims Act, 28 U.S.C. §1346(b) and Ch. 171, this Court does have jurisdiction of actions against the United States "for money damages . . . for injury or loss of property . . . caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his employment" 28 U.S.C. §1346(b). However, the Tort Claims Act expressly provides that it shall not confer jurisdiction of actions against the United States on "[a]ny claim arising out of . . . abuse of process, . . . libel [or] slander" 28 U.S.C. §2680(h). In sum, ". . . the United States is not liable for the deliberate torts of its agents of the kind alleged." Wessly v. General Services Administration, 341 F. 2d 275, 276 (2d Cir. 1964). See also, Baca v. United States, 467 F. 2d 1061, 1063 (10th Cir. 1972); Smith v. DiCova, 329 F. Supp. 439 (E.D. N.Y. 1971); DiSilvestro v. United States, 181 F. Supp. 860 (E.D. N.Y. 1960); Teplitsky v. Bureau of Compensation, U.S. Department of Labor, 288 F. Supp. 310, 312 (S.D. N.Y. 1968); and Benjamin v. Ribicoff, 205 F. Supp. 532, 533 (D. Mass. 1962).

That defendants' alleged claim is asserted as a counterclaim here, instead of as an independent action, is immaterial. Rule 13(d) of the Federal Rules of Civil Procedure expressly provides that "[t]hese rules shall not be construed to enlarge beyond the limits now fixed by law the right to assert counterclaims or to claim credits against the United States"

Moreover, even if a claim against the sovereign for damages for defamation or abuse of process were cognizable in this Court, this counterclaim would not be.^{*/} "With the exception of a compulsory counterclaim which asserts a matter of recoupment and a set-off, neither a permissive nor a compulsory counterclaim may be maintained against the United States unless it has given specific statutory consent." 3 Moore's Federal Practice, 2d ed. 313-28; United States v. Shaw, 309 U.S. 495 (1939); United States v. Northside Realty Associates, 324 F. Supp. 287, 292 (N.D. Ga. 1971). No consent has been given to claims, or counterclaims, such as this.^{**/}

*/ Were such a claim within the Tort Claims Act jurisdiction, it would nonetheless be jurisdictionally defective for want of compliance with the requirements of 28 U.S.C. §2675(a), which bars a tort action against the United States "unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing"

**/ The total absence of any foundation in law for defendants' purported counterclaim is compounded by the technical but significant fact that this extraordinary pleading has not been signed "by at least one attorney of record in his individual name," as required by Rule 11,

(footnote continued next page)

* * *

This is not the first time that a large real estate company has sought to strike back flamboyantly against the United States for seeking to bring its housing practices before the courts. In United States v. Northside Realty Associates, Inc., 324 F. Supp. 287 (N.D. Ga. 1971), the defendants made essentially the same baseless motions to dismiss and for a more definite statement here presented by the Trumps, and also sued for damages. More temperate than the Trumps, Northside and its president, Ed Isakson, only sought not less than \$100,000 per each defendant, a substantial enough amount but only one tenth of one per cent of what the Trumps would like. Although a similar press release was issued, and received considerable

(footnote continued from previous page)
F.R.C.P.. That salutary Rule declares, in pertinent part:

The signature of an attorney constitutes a certificate by him that he has read the pleading; that to his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a pleading is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the action may proceed as though the pleading had not been served.

See American Automobile Ass'n. v. Rothman, 104 F. Supp. 655 (E.D. N.Y. 1952); American Automobile Ass'n. v. Rothman, 101 F. Supp. 193 (E.D. N.Y. 1951); and United States to Use of and for Benefit of Foster Wheeler Corporation v. American Surety Co. of New York, 25 F. Supp. 225 (E.D. N.Y. 1938).

play,^{*/} Northside's counterclaim contained no count for libel and was limited to abuse of process.^{**/} After denying defendants' motions addressed to the Complaint, the Court dismissed the counterclaim for reasons comprehensively presented in its opinion, 324 F. Supp. 290-293. Despite the minor technical differences between these two counterclaims, they are two of a kind. For the reasons given by the Court in Northside,^{***/} as well as the additional grounds related in this brief, we ask the Court to dismiss the counterclaim with prejudice so that the parties can address themselves to the one and only real issue in this case, namely, whether defendants have engaged in a pattern and practice of discrimination in housing or have denied equal housing opportunity to a group of persons. 42 U.S.C. 3613.

^{*/} Defendant Isakson was the President of the Georgia Real Estate Commission.

^{**/} Northside's counterclaim was against the Attorney General and his subordinates, but the Court treated it as a claim against the United States.

^{***/} The Court held, in sum, that the claim did not qualify as a compulsory counterclaim since it did not arise from the same transaction, nor as a permissive counterclaim because the suit was really one against the United States to which the sovereign had not consented. United States v. Faneca, 332 F. 2d 872, 875 (5th Cir. 1964).

CONCLUSION

For the foregoing reasons, plaintiff respectfully requests that defendants' Motions to Dismiss and for a More Definite Statement be denied and that defendants' counterclaim be dismissed with prejudice.

Plaintiff has prepared a proposed Order which is attached to this Memorandum.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Elyse S. Goldweber, an attorney for the plaintiff, hereby certify that I have served a copy of the attached Notice of Motion of the United States to dismiss defendants' counterclaim, a copy of the attached Memorandum of the United States in Opposition to Defendants' Motion to Dismiss, Motion for More Definite Statement and in Support of Plaintiff's Motion to Dismiss the Counterclaim and a copy of the attached Memorandum of the United States in Response to the Affidavits of Donald Trump and Roy Cohn on the defendants by mailing a copy, postage prepaid, to their attorney at the following address:

Roy M. Cohn, Esq.
Saxe, Bacon, Eolan & Manley
39 East 68th Street
New York, New York 10021

This, the 4th day of January, 1974.


ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ JAN 8 1974 ★

CIVIL ACTION NO. 73 C 1529

TIME A.M.
P.M.

UNITED STATES OF AMERICA,

Plaintiff,

v.

FRED C. TRUMP, DONALD TRUMP
AND TRUMP MANAGEMENT INC.,

Defendants.

UNREPORTED ORDERS CITED IN THE
MEMORANDUM OF THE UNITED STATES IN OPPOSITION TO
DEFENDANTS' MOTION TO DISMISS, MOTION FOR MORE
DEFINITE STATEMENT AND IN SUPPORT OF
PLAINTIFF'S MOTION TO DISMISS
THE COUNTERCLAIM

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13578 (N.D. Ga., July 28, 1970)

United States v. Palm Beach Listing Bureau, Inc., Civil Action
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United States v. Miller, Civil Action No. 70-40 (D. Md. April 27,
1970)

United States v. H.G. Smithy, Civil Action No. 21470 (D. Md.
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70-23-PHX (CAM) (D. Ariz. April 8, 1970)

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Tex. Sept. 27, 1972)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 GEORGE N. RAYMOND,)
)
 Defendant.)
 _____)

No. 73-119-Civ-T-H TAMPA

RECEIVED BY
U.S. ATTORNEY
MIDDLE DISTRICT OF FLORIDA

SEP 6 1973

FILED
SEP 5 1973

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND PRELIMINARY INJUNCTION

The United States of America filed this action on March 14, 1973, pursuant to 42 U.S.C.A. §3613 against the Defendant George N. Raymond seeking relief for alleged violations of Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act), 42 U.S.C.A. §3601, et seq. The Complaint alleges that the Defendant made dwellings unavailable to persons because of race and color; imposed different terms, conditions, and privileges of rental of dwellings on persons because of race and color; and made statements with respect to the rental of dwellings which indicate a preference, limitation, and discrimination based on race and color. The Complaint further alleges that the Defendant's conduct constitutes a pattern and practice of resistance to the full enjoyment of rights secured by the Fair Housing Act and a denial to groups of persons of rights granted by the Fair Housing Act, which denial raises an issue of general public importance. The Complaint seeks injunctive and affirmative relief. The United States also moved for a preliminary injunction. On April 12, 1973, the Defendant filed a motion to

dismiss the Complaint, or in the alternative, for a more definite statement. Both of Defendant's motions have been denied.

On July 5, 1973, Plaintiff's Motion for a Preliminary Injunction came on for hearing. The Court has considered the testimony and documentary evidence, and the contentions of counsel for both parties. Pursuant to Rule 52 of the Federal Rules of Civil Procedure the Court makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Defendant George N. Raymond owns and operates approximately 50 apartment rental units in St. Petersburg, Florida. He previously owned and operated approximately 20 additional apartment units in St. Petersburg, including the Florene Apartments.

2. All of Mr. Raymond's tenants have been white persons.

3. During May 1972, the Federal Bureau of Investigation, United States Department of Justice, conducted an investigation of allegations that Mr. Raymond was engaged in racially discriminatory housing practices in violation of the Fair Housing Act of 1968. Mr. Raymond was told of the purpose of this investigation. He consented to being interviewed, and furnished a signed statement which was witnessed by Special Agents James Delk Leland and John V. DeNeale. Mr. Raymond admitted pursuing a racially discriminatory policy in the operation of his apartment buildings, as follows:

My policy is not to rent my apartments to black people. If I rented to black people I would lose the white tenants in my apartment house. In addition, with my plan to sell this apartment house [located at 516 10th Avenue South,] if I had rented to black people, I feel as if I would have lost 1/3 of my investment in this particular property.

* * * * *

There are no black tenants in any of these apartments and never has been. If a black person wanted to rent an apartment in one of these apartments I would refuse to rent it inasmuch as I would not "break the color line." (Emphasis added)

4. On July 26, 1971, Mr. Raymond rented apartment #4 at the Florene Apartments, 516 10th Avenue South, to Bradford and Gail Sorenson, a white couple, for a one-year period, August 1, 1971, through July 31, 1972. On May 4, 1972, two black females were visiting the Sorensons at their apartment. Mr. Raymond came to the apartment and asked to speak to Mr. Sorenson outside at the garage. Once outside Mr. Raymond told Mr. Sorenson that he wanted the Sorensons to move out of the apartment as soon as possible. Upon being asked by Mr. Sorenson whether or not having two black guests in the apartment had anything to do with their eviction, Mr. Raymond replied in the affirmative. In his signed statement to the Federal Bureau of Investigation, Mr. Raymond admitted this affirmative response.

Mr. Sorenson returned to his apartment and told his wife they were being evicted because they had black female guests. Mrs. Sorenson left the apartment and met Mr. Raymond in front of the building. Mr. Sorenson joined them shortly thereafter. When Mrs. Sorenson asked Mr. Raymond why he was evicting them, Mr. Raymond told her that it was because they had two blacks in their apartment. Mr. Raymond also said he was in the process of selling the apartment building (Florene Apartments) and that the presence of the black females on the premises would decrease the value of the property. Finally, Mr. Raymond stated that another tenant had complained to him regarding the presence of the black females.

Mr. Raymond subsequently sent the Sorensons an eviction notice and they vacated the apartment at the end of May 1972.

5. On May 4, 1972, a white tenant asked Mr. Raymond if he was going to rent a vacant apartment at the Florene Apartments to "colored people" and subsequently told him that she would leave if "colored people" moved into the apartment. In his signed statement to the Federal Bureau of Investigation, Mr. Raymond admitted telling her that he "was not going to rent to colored people."

CONCLUSIONS OF LAW

1. This Court has jurisdiction of this action under 28 U.S.C. §1345 and 42 U.S.C.A. §3613.

2. The Defendant's apartments are dwellings within the meaning of 42 U.S.C.A. §3602(b).

3. 42 U.S.C.A. §3604 (a) and (b) prohibit discrimination against "any person" because of race or color. Discrimination against white persons because of the race or color of their guests is therefore prohibited. Cf. Sullivan v. Little Hunting Park, Inc., 396 U.S. 229, 237 (1969); Walker v. Pointer, 304 F.Supp. 56, 57-61 (N.D. Tex. 1969).

4. To prevail on the merits, the United States must show that the Defendant has either:

(a) engaged in a "pattern or practice" of resistance to the full enjoyment of the right to equal housing opportunity; or

(b) denied the right to equal housing opportunity and "such denial raises an issue of general public importance." 42 U.S.C.A. §3613; U.S. v. Bob Lawrence Realty, Inc., 474 F.2d 115, 122-123 (5th Cir. 1973); U.S. v. Hunter, 459 F.2d 205, 216-218 (4th Cir. 1972).

5. To prove a "pattern or practice" of resistance to the full enjoyment of the right to equal housing opportunity, the United States must show more than "an isolated or accidental instance of conduct violative of the Act, but rather, as the term 'resistance' connotes, an intentional, regular, or repeated violation of the right granted by the Act." U.S. v. Hunter, 459 F.2d 205, 217 (4th Cir. 1972). Extrajudicial admissions of a racially discriminatory policy are evidence of a pattern or practice. Cf. U.S. v. West Peachtree Tenth Corp., 437 F.2d 221, 227 (5th Cir. 1971); U.S. v. Real Estate Development Corp., 347 F.Supp. 776, 783 (N.D. Miss. 1972). The Court finds that the Defendant's extrajudicial admissions of a discriminatory policy (Findings of Fact Nos. 3 and 5) coupled with the eviction of a white tenant pursuant to that policy because they had black guests (Finding of Fact No. 4) constitute a pattern or practice of discriminatory conduct. The incident was not accidental due to the Defendant's own deliberate act (however impetuous and regrettable); and it was not isolated (due to the admitted policy or attitude, corroborated by the absence of any black tenants in the past).

6. With regard to the remedy, "[e]stablished principles of equity dictate that in considering whether to grant injunctive relief a court should impose upon a defendant no restriction greater than necessary to protect the plaintiff from the injury of which he complains." U.S. v. Hunter, 459 F.2d 205, 219 (4th Cir. 1972). Cf. U.S. v. Bob Lawrence Realty, Inc., 474 F.2d 115, 127 (5th Cir. 1973). In this instance, while the Court has concluded that the evidence is sufficient to establish the Government's claim as alleged in the Complaint, including the element of "pattern or practice," the proof does

not justify a finding or conclusion that Defendant has maliciously and repeatedly denied rights guaranteed by the Act or that his present attitude portends a contumacious adherence to his discriminatory policy. Cf. U.S. v. West Peachtree Tenth Corp., 437 F.2d 221, 223 (5th Cir. 1971). Defendant is the proprietor of a small business with offices in his own home. He is not the corporate owner of a large scale apartment complex with a supporting staff of numerous assistants to help in management. Cf. U.S. v. West Peachtree Tenth Corp., supra; U.S. v. Real Estate Development Corp., 347 F.Supp. 776, 779 (N.D. Miss. 1972). Further, the Court notes Defendant's contrite declaration in his testimony at the hearing that he would freely and willingly rent units to any applicant without regard to race or color as required by the Act. Cf. U.S. v. Bob Lawrence Realty, Inc., supra, at 126. Together these factors dictate moderation in framing the injunctive decree so that it "impose[s] upon the defendant no restriction greater than necessary to protect the plaintiff from the injury of which he complains." U.S. v. Hunter, supra. Accordingly, a preliminary injunction in the form that follows is amply suited to the circumstances of this case as contrasted with the facts in Peachtree which had none of the mitigating features present here. U.S. v. West Peachtree Tenth Corp., supra, at 228-231.

PRELIMINARY INJUNCTION

Pursuant to the foregoing Findings of Fact and Conclusions of Law, it is hereby

ORDERED, ADJUDGED AND DECREED by this Court that, pending further Order of the Court, the Defendant, George N.

Raymond, and his agents, employees, successors, and all persons in active concert or participation with him are enjoined from:

1. Failing or refusing to rent an apartment to any person because of race or color and from making an apartment unavailable to any person because of race or color;

2. Discriminating against any person in the terms, conditions, or privileges of rental of an apartment, or in the provision of services or facilities in connection therewith, because of race or color;

3. Making, printing, or publishing, or causing to be made, printed, or published, any notice, statement, or advertisement, with respect to the rental of an apartment, that indicates any preference, limitation, or discrimination based on race or color, or an intention to make such preference, limitation, or discrimination;

4. Representing to any person because of race or color that an apartment is not available for inspection or rental when such apartment is in fact available.

IT IS FURTHER ORDERED that the Defendant shall forthwith adopt and implement the following affirmative program to correct the effects of his past discriminatory practices:

1. Within ten (10) days of this Decree, Defendant shall permanently post a notice, or notices, at places clearly visible to rental applicants, stating that Defendant's apartments will be rented without regard to race or color. At least one such notice shall be posted at each of his several apartment complexes.

2. The Defendant shall forthwith fully instruct all of his employees, if any, with respect to the provisions of this Decree and with respect to their obligations thereunder. Upon

hiring a new employee, Defendant shall explain the contents of this Decree to him and advise him that he is subject to all the requirements contained herein.

3. In the event that a firm, association, company, corporation, or other person is engaged by Defendant to act as a real estate agent, referral agency, or otherwise manage or promote rentals of apartments for the Defendant, such firm association, company, corporation, or person shall be notified by Defendant that apartments are rented without regard to race or color.

IT IS FURTHER ORDERED that ninety (90) days after the entry of this Decree, and at three-month intervals thereafter, for a period of two years following the entry of this Decree, the Defendant shall file with this Court, and serve on counsel for the Plaintiff, a report containing the name, address, and the visually observed race of each person who has, within the preceding ninety (90) days:

(a) made written application for the rental of an apartment; and/or

(b) visited the premises as a prospective tenant for the purpose of inspecting an available apartment.

These reports shall additionally contain:

1. whether or not the rental of an apartment was offered to such person;

2. whether or not the rental of an apartment was accepted by each such person;

3. the dates on which each of the foregoing actions were taken.

For a period of two years following the entry of this decree, the Defendant shall maintain and retain any and all

records which are the source of, or contain, any of the information pertinent to Defendant's obligation to report to the Court. Representatives of the Plaintiff shall be permitted to inspect and copy all pertinent records of the Defendant at any and all reasonable times, provided, however, that the Plaintiff shall endeavor to minimize any inconvenience to the Defendant from the inspection of such records.

The Court retains jurisdiction of this action for all purposes, including particularly the purpose of modification of the terms and requirements of this Decree in the event the same should prove inadequate to facilitate an efficient and objective method of determining Defendant's compliance with the statute and the Decree.

IT IS FURTHER ORDERED that counsel for both parties are directed to notify the Court in writing within ten (10) days from the date hereof whether either wishes to present additional evidence at the trial of this cause, or whether, pursuant to Rule 65(a)(2), Federal Rules of Civil Procedure, the hearing on the application for the preliminary injunction previously held may be treated as a trial of the general issues.

DONE and ORDERED at Tampa, Florida, this 5th day of September, 1973.

United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED

SEP 5 4 11 PM '73

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,)

Plaintiff)

v.)

CITY OF PARMA, OHIO,)

Defendant)

NO. C 73-439

MEMORANDUM OPINION
AND ORDER

Battisti, C.J.

This is an action brought by the Attorney General on behalf of the United States of America seeking injunctive relief against alleged violations of the Fair Housing Provisions contained in Title VIII of the Civil Rights Act, 42 USC §3601 et seq., by the City of Parma, a municipal corporation established under Ohio law.

The Government's complaint alleges, in substance, that the defendant, acting in accordance with its purported general policy of substantially excluding blacks from residing within its boundaries, prevented the construction of a federally assisted apartment development (under Section 236 of the National Housing Act, 12 USC §1715Z-1) which would have offered accommodations to a fair percentage of black tenants and, further, adopted procedures designed to effectively block any possibility of racially integrated federally assisted housing from being built in the City. The effect of the above-described acts, it is alleged, is to perpetuate the virtually all-white population makeup of the defendant City; deny dwellings to blacks purely on account of

race; similarly work to deny dwellings to prospective white residents of racially integrated housing purely for racial motives; and interfere with the right and ability of actual and prospective sponsors of federally assisted housing from assisting persons in the exercise and enjoyment of their rights to fair and non-discriminatory housing opportunities.

The complaint charges that defendant's conduct constitutes a pattern of practice of resistance to the full enjoyment of the rights secured by the Fair Housing Act and by the Thirteenth and Fourteenth Amendments to the United States Constitution.

Defendant has moved to dismiss the Government's complaint, pursuant to Rule 12(b) F.R.Civ.P. on the grounds that this Court lacks jurisdiction and that the Government has failed to state a claim upon which relief can be granted. In the alternative, defendant has filed separate motions to require the Government to strike various allegations in its complaint and make others more definite.

Defendant bottoms its motion to dismiss, first, on the argument that it is not subject to suit by the Attorney General pursuant to 42 USC §3613 for the reason that municipalities or political subdivisions of a state are not "persons" against which such a suit may be brought. 42 USC §3613 provides:

"Whenever the Attorney General has reasonable cause to believe any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any rights granted by this subchapter, or that any group of persons has been denied any of the rights granted by this subchapter and such denial raises an issue of general public importance,

he may bring a civil action in any appropriate United States District Court by filing with it a complaint setting forth the facts and requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for such pattern or practice or denial of rights, as he deems necessary to insure the full enjoyment of the rights granted by this subchapter."

In support of its position, defendant places great reliance on the holdings of the Supreme Court in Monroe v. Pape, 365 US 167 (1961) and City of Kenosha v. Bruno, _____ US _____, 41 U.S.L.W. 4819 (June 11, 1973). These cases taken together establish that municipalities are not "persons" within the meaning of 42 USC §1983; and, accordingly, are not amenable to suit under that statute, even if only declaratory or equitable relief is sought.¹ Defendant urges that these two cases resolve the issue here in question. Monroe and City of Kenosha, however, may not be so broadly viewed. Both cases exclusively involved the statutory construction of Section 1983 and were predicated on explicit legislative history peculiar to that statute. In neither case was there any suggestion that the construction given to Section 1983 in regard to "persons" was to apply to other civil rights statutes, particularly one passed nearly one hundred years after the initial enactment of Section 1983.² Monroe and City of Kenosha, therefore, are not dispositive of whether

1) While the Court in Monroe v. Pape, supra, at p. 187-192 seemed to have expressly held that municipalities were not amenable to suit under Section 1983, the holding was construed in several subsequent decisions by lower federal courts to disallow suits for damages but not suits seeking only equitable relief. See e.g., Schrell v. City of Chicago, 407 F.2d 1034 (7th Cir. 1969). The recent ruling in City of Kenosha v. Bruno, supra, dispelled any doubts relating to that aspect of the Monroe holding by squarely ruling that under no circumstances may municipalities be subject to suit under Section 1983.

2) 42 USC §1983 was originally enacted as Section 1 of the Ku Klux Act of April 20, 1871, 17 Stat. 13.

municipalities are "persons" under Section 3613 of the Fair Housing Act. This Court must resolve that issue by adopting a construction of Section 3613 which properly comports with its own particular context.

In determining the meaning or reach of the word "person" in the context of Section 3613 of the Fair Housing Act, it is the express duty of the courts to construe the language so as to give effect to the intent of Congress. United States v. America Trucking Assoc., 310 US 534, 542 (1940). No legislative history has been cited clearly manifesting one way or the other whether municipalities were meant to be covered by the Fair Housing Act. It is clear, however, that when Congress passed Title VIII of the Civil Rights Act of 1968 its purpose was to enact legislation so as to deal broadly with those prevalent discriminatory housing practices which were blocking blacks and other racial and national minorities from enjoying full and fair access to decent and desirable housing. Indeed it is explicitly stated in 42 USC §3601 that the purpose underlying the Fair Housing Act is "to provide, within constitutional limitations, for fair housing throughout the United States."

In light of this expansive purpose, and in light of the established canon of statutory construction that civil rights statutes such as the one here under construction should be read broadly in order to fulfill their purposes, See Griffin v. Breckenridge, 403 US 88 (1971); Daniel v. Paul, 395 US 298 (1969); Mayers v. Pidley, 465 F.2d 630 (D.C. Cir. 1972) (en banc); United States v. Real Estate Develop. Corp., 347 F.Supp. 776 (N.D. Miss. 1972), the word "person" must be

construed in such a manner as to foreclose circular loopholes in the coverage of the Fair Housing Act.

Defendant, however, argues that as the term "person" is expressly defined by 42 USC §3602(d) of the Fair Housing Act and since municipalities are not specifically mentioned within the definition there set forth, Congress must have intended to exclude them. 42 USC §3602(d) provides:

"'Person' includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries."

The Government argues that the term "corporation" in Section 3602(d) should be read to encompass not only private corporations, but public ones as well. Assuming, arguendo, that the term "corporation" is not to be read so broadly, it is nonetheless clear that the definition of "person" as set forth in Section 3602(d) was not meant to be all-inclusive. If Congress had meant the definition of "person" to be limited to the express enumeration of entities in Section 3602(d), it could easily have so stated. Instead the language of Section 3602(d) indicates only that the term "person" should be construed to "include" what is enumerated therein, and not be limited to such enumeration. "The word 'includes' is usually a term of enlargement, and not a limitation." Argosy v. Hennigan, 404 F.2d 14, 20 (5th Cir. 1968) quoting United States v. Gertz, 249 F.2d 662, 666 (9th Cir. 1957). This is plainly the case here.

Accordingly, it is held that a city or municipality is a "person" within the meaning of 42 USC §3613 and is amenable to suit. See Kennedy Park Homes Assoc. v. City of

Lackawanna, 318 F.Supp. 669, 694 (W.D. N.Y. 1970), aff'd.,
436 F.2d 108 (2d Cir. 1970), cert. den., 401 US 1010 (1971);
United States v. City of Black Jack, _____ F.Supp. _____,
P.H.E.O.H. Rptr. Para. 13,561 (E.D. Mo. 1972).

Defendant argues secondly that even if it is subject to suit under 42 USC §3613, the Government's complaint must be dismissed for failure to state a claim for relief under the Fair Housing Act. Defendant urges that since it is not being charged with discrimination in the sale or rental of dwellings, 42 USC §3604, or in the financing of dwellings, 42 USC §3605, or in providing access to opportunities in the real estate brokerage services, 42 USC §3606, it cannot, as a matter of law, be deemed to have violated any prohibition contained in the Fair Housing Act.³ The Government, on the other hand, maintains that the allegations of its complaint clearly and squarely charge defendant with discriminatory housing practices falling within Section 3604 (a) as well as with violations of Section 3617 of the Act.

3) In support of this contention, defendant has cited to the Court several remarks by various Government and congressional figures made either in the course of congressional hearings on the Act, or in the course of debate on the floor of Congress immediately prior to the Act's passage. E.g. 114 Cong. Rec. 2275, 2279, 2282-2283, 2528 (Remarks of Senator Mondale, Senator Brooke and Senator Tydings) These remarks may be generally characterized as attempts at setting forth the purposes of the Fair Housing Act and the policies underlying it. They focus, as is natural, on the need to pass legislation proscribing discrimination in the housing sector itself. They do not indicate, however, what the impact of the legislation was to be on municipalities, nor do they seem to contemplate the problems presented by this suit.

While it is true that the allegations of the Government's complaint do not charge defendant specifically with refusing to sell or rent dwellings on racial grounds, the prohibitions contained in Section 3604(a) are clearly not so limited. Section 3604(a) not only makes it unlawful to "refuse to sell or rent. . ." a dwelling for racial reasons, but also makes it unlawful to "otherwise make unavailable or deny a dwelling to any person because of race, color, religion, or national origin." (Emphasis added.) This catch-all phraseology may not be easily discounted or de-emphasized. Indeed it "appears to be as broad as Congress could have made it, and all practices which have the effect of denying dwellings on prohibited grounds are therefore unlawful."

United States v. Youritas Constr. Co., _____ F.Supp.

P.H.E.O.H. Rptr. Para. 13,592 (N.D. Calif. 1973).

The Government further invokes 42 USC §3617 in support of its complaint. This section makes it unlawful "to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of . . . or on account of his having aided or encouraged any other person in the exercise or enjoyment of any right granted by Sections 3603, 3604, 3605, or 3606 of this title." 42 USC §3617, although broadly worded, and seemingly endless in scope, has until now received little treatment by the courts.⁴

The Government's complaint, however, fairly alleges that defendant's conduct in barring the construction of

4) It would seem, however, that Judge Meredith, in passing on the sufficiency of a complaint comparable to the one here at issue in several respects, relied partially on 42 USC §3617 in sustaining the complaint. See United States v. City of Black Jack, supra.

federally assisted housing interfered with the right of actual and prospective sponsors of federally assisted housing to assist persons in exercising their right to equal housing opportunities. This allegation seems to fall within the ambit of Section 3617.⁵

It is well established that a complaint should not be dismissed for failure to state a claim for relief unless it is clear that the plaintiff can prove no state of facts in support of its allegations that could entitle him to relief. See Conley v. Gibson, 355 US 41, 45-46 (1952); Jenkins v. McKeithen, 395 US 411, 421-422 (1969). Moreover, the material allegations of the complaint are to be taken as admitted for purposes of evaluating the sufficiency of the complaint, and the complaint must be liberally construed and viewed in the light most favorable to the plaintiff. Jenkins v. McKeithen, *supra*, 395 US at p. 421. With these rules in mind, it would be entirely inappropriate for this Court to dismiss this complaint summarily. See Kennedy Park Homes

5) Noteworthy too is Section 3615 of the Fair Housing Act. This section provides, in pertinent part, that:

" . . . any law of a state or political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid."

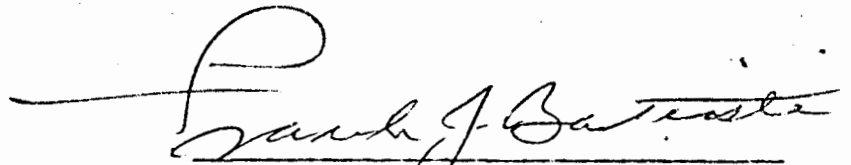
In Park View Heights Corp. v. City of Black Jack, 467 F.2d 1208, 1214 (8th Cir. 1972), an action challenging alleged discriminatory zoning by a municipality was expressly sustained as arising under Section 3615.

Assoc. v. City of Lackawanna, N.Y., supra; United States v. City of Black Jack, supra; Park View Heights Corp. v. City of Black Jack, 467 F.2d 1208, 1214 (8th Cir. 1972); Sisters of Prov. of St. Mary of Woods v. City of Evanston, 335 F. Supp. 396, 399 (N.D. Ill. 1971). In the last-cited case, Judge Marovitz so correctly said, at page 399:

"It is especially in civil rights disputes that we ought to be wary of disposing of the case on pretrial motions and courts do in fact have a predilection for allowing civil rights cases to proceed until a comprehensive record is available to either support or negate the facts alleged."

Accordingly, defendant's motion to dismiss the Government's complaint is denied. Defendant has, in the alternative, moved to strike in their entirety paragraphs four, five, seven, and ten of the Government's complaint, to strike a portion of paragraph nine, and for a more definite statement as to paragraphs five, six, seven, eight, nine, and ten of the complaint. These motions are without merit, and are denied.

IT IS SO ORDERED.


Frank J. Battisti
Chief Judge

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

MINUTE ENTRY:
MAY 15, 1973
WEST, J.

UNITED STATES OF AMERICA

VERSUS

GILLIE G. WATSON, SR., ET AL

CIVIL ACTION

NUMBER 73-97

* * * * *

This matter is before the Court on defendants' motion for a more definite statement. A review of the record indicates that no oral argument is required on this motion.

Since all of the information which the defendants seek through this motion could more properly be obtained by the defendants through the proper use of discovery procedures, and since the complaint, on its face, is couched in language similar to that of the statute involved, and since the Court concludes that the language of the complaint does, in fact, provide adequate notice of the claim made by the plaintiff:

IT IS ORDERED that defendants' motion for a more definite statement be, and it is hereby DENIED.

(SIGNED) E. GORDON WEST

UNITED STATES DISTRICT JUDGE

Douglas M. Gonzales, Esq.

Gillie G. Watson, Sr.

Sumpter B. Davis, III, Esq.

RE: Civil Action 72-H-993
United States of America vs. The Jim Tucker Company, Inc.

9/22/72: In view of answer having been filed, Defendant's Motion for More Definite Statement is denied. Fed. R. Civ.P. 12(e). Clerk shall notify counsel. COB

SEP 20 4 12 PM '72
CIVIL RIGHTS DIVISION
RECEIVED

FILED

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JUL 16 1971

JANE P. GORDON, CLERK

BY _____
DEPUTY CLERK

UNITED STATES OF AMERICA,)
)
) Plaintiff,)
)
) VS.)
)
) PELZER REALTY COMPANY, INC.,)
) ET AL,)
)
) Defendants.)

CIVIL ACTION NO. 3284-N

ORDER

The Defendants', Pelzer Realty Company, Inc. and William G. Thames, motions to dismiss, filed herein on May 7, 1971, are now submitted. Upon consideration of the motions and the complaint, it is ORDERED that said motions be, and the same are hereby, denied.

DONE this the 16th day of July, 1971.

RE Thames
United States District Judge

MAY 24 1971

CIVIL RIGHTS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA
213 U. S. COURT HOUSE & CUSTOM HOUSE
MOBILE, ALABAMA 36602

1-097-155

DATE: MAY 18, 1971

TO: Mr. C. S. White-Spinner, Jr., P. O. Drawer E, Mobile, Ala. 36601
Mr. Henry C. Hagen, Housing Section, Civil Rights Division
U. S. Dept. of Justice, Washington, D. C.
Mr. William L. Irons, 1300 City National Bank Building,
Birmingham, Ala. 35203

RE: CIVIL ACTION NO. 6451-71 ADM. NO. _____ CR. NO. _____

UNITED STATES OF AMERICA vs. H. MELVILLE DAVIS, JR., ET AL.,

You are advised that on the 18 day of MAY
1971, the following action was taken in the above-entitled
case by Judge PITTMAN:

Motion to dismiss filed by defendants on 2/3/71 and
submitted on 4/9/71 is DENIED.

Motion for change of venue filed by defendants on 2/3/71
and submitted on 4/9/71 is DENIED.

175-3-7	
3	DEPT. OF JUSTICE MAY 21 1971 R.A.O. CIV. RIGHTS DIV.
	RECORDED

WILLIAM J. O'CONNOR, CLERK,

BY [Signature]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

A.B. SMYTHE COMPANY, INC., and
IRENE MICHAEL, et al.,

Defendants

No. C 69-885

MEMORANDUM OPINION
AND
ORDER

LAMBROS, DISTRICT JUDGE

This cause of action was instituted by the Government under Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §3601 et seq. The defendants, A.B. Smythe Company and Irene Michael, now move to dismiss the complaint. The motion is denied in its entirety.

Two basic issues are raised by the defendants' motion to dismiss. One, whether or not the defendants are exempt from the provisions of the Act for the conduct alleged in the complaint because of the exemption provided to any single family house sold or rented by an owner under 42 U.S.C. §3603(b)(1). Two, whether or not 42 U.S.C. §3604(c) is unconstitutional as a violation of the First Amendment.

The first issue arises since the Act does not have a specific effective date for all its provisions but becomes effective in certain stages. Upon enactment, it is applicable to dwellings⁽¹⁾ which have federal assistance or are

1. Under the Act, a dwelling is defined as "any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof." 49 U.S.C. §3602(b).

In conformity with Rule 77 (c) F.R.C.P.
Please take notice that the following motion was entered in this court on

NOV 24 1970

Dominic J. Lambros, Clerk

of federal ownership. 42 U.S.C. §3603(a)(1). After December 31, 1968, it applies to all other dwellings, except for two exemptions. 42 U.S.C. §3603(a)(2). One of these exemptions is for any single-family house sold or rented by an owner. 42 U.S.C. §3603(b)(1). After December 31, 1969, the Act applies to any single-family house sold or rented by an owner "if such house is sold or rented...[with] the use in any manner of the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person" 42 U.S.C. §3603(b)(1)(A).

The defendants argue that they come within the exemption accorded to the sale or rental of a single-family house for the year of 1969. Particularly, they contend that for the year of 1969, a real estate broker or agent is included within the exemption for a single-family house. They claim that since the sale or rental of a single-family house with the assistance of a real estate broker or agent is specifically included in the Act for the period of time after December 31, 1969, the sale or rental of such a house with the aid of real estate men is implicitly excluded prior to that time.

The Court need not reach the validity of the defendants' contention. The Government alleges that the defendants engaged in discriminatory conduct in regard to vacant land in the Lake Lucerne subdivision and with respect to all the houses in the subdivision. The Court finds that the exemption accorded to a single-family house for the year of 1969 is not applicable to vacant land nor to a subdivision as an entity.

Thus, notwithstanding the alleged exemption, the Government has still stated a claim for relief against the defendants.

As for the second issue, that is the constitutionality of 42 U.S.C. §3604(c), the Court finds that it is constitutional. The section reads as follows:

"To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination."

The Court finds that the statute is not void for vagueness. This section is not violative of the First Amendment.

The defendants' other contentions in regard to their motion are also without merit.

Accordingly, the motion to dismiss the complaint is denied in its entirety.



Thomas D. Lambros
United States District Judge

OCT 20 3 27 PM '70

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

U.S. DIST. CT.
SOUTHERN DIST. OF FLA.

NO. 70-1223-Civ-CE

9-625-210

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

ABRAHAM GOLDBERG, d/b/a)
ISLE OF VERICE APARTMENTS)
and LISA ANN APARTMENTS,)

Defendants.)

ORDER RECEIVED BY
U.S. ATTORNEY

OCT 23 1970

SO. DIST. OF FLA.

The United States of America, plaintiff herein, filed the complaint in this case on August 19, 1970, alleging racial discrimination, in violation of the Fair Housing Act, Title VIII of the Civil Right Act of 1968, 42 U.S.C. 3601 et seq., by the defendant in the operation of two apartment buildings he owns and operates in Hollywood, Florida. The defendant has moved this Court to dismiss the complaint on three grounds:

1. failure to join, as an indispensable party, a Negro who was allegedly a victim of the defendant's racial discrimination;
2. failure to state a claim upon which relief can be granted; and
3. failure to state in the complaint sufficient facts to enable the defendant to frame an answer. Defendant has also moved for Summary Judgment.

This Court, having considered the complaint, the affidavits on file herein, and the briefs and arguments of counsel, hereby denies all of defendant's motions.

Defendant shall have until November 9, 1970 to answer the complaint.

DOCKETED

It is so ORDERED

NOV 5 1970

This 19 day of October, 1970.

CIVIL RIGHTS

CHARLES B. FULTON

CHIEF JUDGE

OFFICE
JUL 31 1970
By: CLAUDE L. GOZA, Clerk
Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION DOCKETED

AUG 7 1970

UNITED STATES OF AMERICA :
: :
VERSUS : CIVIL ACTION NO. 13,573
: :
PKC COMPANY, INC. OF :
GEORGIA, et al :

ORDER

The defendants have motions to dismiss, for a more definite statement, and to strike, pursuant to Rule 12 of the Federal Rules of Civil Procedure, pending before this court.

This is a suit brought by the Attorney General on behalf of the United States under Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §3601, et seq. Jurisdiction exists in this court by virtue of 28 U.S.C. §1345. In paragraph 10 of the complaint it is alleged in part:

The defendants follow a policy and practice of racial discrimination against Negroes with respect to the sale of lots in the properties described in the preceding paragraphs.

A reading of the complaint clearly shows that a claim is stated sufficient to pass defendants' motion to dismiss, and that the allegations are clear enough to enable defendants to respond. Conley v. Gibson, 355 U.S. 41 (1957); and United States v. Georgia Power Co., 301 F.Supp. 533 (N.D. Ga. 1969). Further, defendants' alleged pre-Act discrimination is not "redundant, immaterial, impertinent, or scandalous matter" subject to a motion to strike. F.T.C. v. Cement Institute, 333 U.S. 623, 705 (1948). Accordingly, all defendants' motions are denied as without merit.

The issues raised by defendants' motion are well-settled and require no discussion beyond that provided in the government's

172 11 21
AUG 7 1970

brief. Following their answer discovery is the proper procedure for defendants to employ in learning more about plaintiff's allegations. Discovery is not to be used to delay further proceedings. Local Rule 10 provides such "procedures shall be commenced promptly, pursued diligently and completed without unnecessary delay and within four months after the answer has been filed...."

So ordered this the 28th day of July, 1970.

/s/ Albert J. Henderson, Jr.
Judge, United States District Court
for the Northern District of Georgia

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

NO. 70-379-Civ-CF

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 PALM BEACH REALTY LISTING)
 BUREAU, INC.,)
)
 Defendant.)

ORDER

RECORDED
INDEXED
MAY 5 2 43 PM '70
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

THIS CAUSE is set for hearing before this Court on Monday, May 11, 1970, at 10:00 A.M. upon motions of the defendant to dismiss the complaint, or in the alternative to strike certain portions thereof, or for more definite statement. In preparation for this hearing the Court has carefully studied the complaint and the motions and has determined that oral argument is unnecessary. Thereupon, it is

ORDERED and ADJUDGED that these motions be and the same are hereby denied. The material sought by the motion for more definite statement are proper subjects for discovery.

DONE and ORDERED at Miami, Florida, this 5th day of May, 1970.

C. CLYDE ARMS
U. S. DISTRICT JUDGE

- cc: U.S. Attorney
Gustave T. Broberg, Jr.
John H. Mitchell, Esquire
Jerris Leonard, Esquire
Frank F. Schreib, Esquire
Walter W. Bennett, Esquire

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH and ROSE MILLER and
UNITED INVESTORS MANAGEMENT
CORPORATION d/b/a PENNBROOKE
TERRACE APARTMENTS,

Defendants.

CIVIL ACTION
NO. 70-40

ORDER

U.S. DISTRICT COURT
DISTRICT OF MARYLAND

APR 27 3 26 PM '70

RECEIVED

This matter came on for a hearing on April 10, 1970 on the motion of the defendants to dismiss the complaint.

The United States commenced this action under the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq. on January 12, 1970, against the owners and managers of Pennbrooke Terrace, an apartment complex in Suitland, Maryland. The operative portions of the complaint, after allegations of jurisdiction and coverage, read as follows:

"The defendants follow a policy and practice of racial discrimination against Negroes with respect to the renting of apartments. Pursuant to this racially discriminatory policy; defendants have refused to make apartments available to Negroes and have made statements with respect to the rental

of dwellings that indicate a preference, limitation, or discrimination based on race.

Defendants have rented 1 of the 404 apartment units in the above named building to a Negro tenant, and have retained the one Negro tenant for the purpose of creating a non-discriminatory image.

The conduct described in the preceding paragraphs constitute a pattern and practice of resistance to the full enjoyment of rights secured by Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601 et seq."

The defendants moved to dismiss the action on the grounds that the complaint does not comply with Section 813 of the Act, 42 U.S.C. 3613. This section provides that the Attorney General, when he has reasonable cause to believe persons to have engaged in a pattern or practice of resistance to the full enjoyment of any rights granted by the Act, may file a complaint "setting forth the facts and requesting such preventive relief . . . as he deems necessary"

The defendants contended, in addition, that the complaint failed to meet the requirements of Rule 8(a)(2), Federal Rules of Civil Procedure, which provides for a "short and plain statement of the claim," and did not state a claim upon which relief could be granted.

Rule 12(b)(6), Fed. R. Civ. P.

Upon due consideration, the Court finds the complaint states a claim upon which relief may be granted, complies with 42 U.S.C. 3613, and is sufficient to resist a motion to dismiss. The factual details underlying the broad allegations of the complaint are available to defendants by means of pretrial discovery, Rules 26-37, Fed. R. Civ. P.

The motion to dismiss is denied.

ORDERED, ADJUDGED AND DECREED this 27th day of April, 1970.

R. Dorsey Watkins

R. DORSEY WATKINS
United States District Judge

Agreed as to form:

M.R. Eisenstein
MIRIAM R. EISENSTEIN
Attorney for Plaintiff

N. Deckelbaum
NELSON DECKELBAUM
Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)

Plaintiff)

v.)

H. G. SMITHY COMPANY, et al.,)

Defendants)

Civil Action No. 21470

ORDER

This matter came on for a hearing on April 17, 1970, on all defendants' motions to dismiss the action and for summary judgment, and on the motion of the defendants H. G. Smithy Company, Victor and Lydia Carone, and Mrs. Lewis Armstrong for a severance. The motions having been fully briefed, and a full hearing having been held in open court, now therefore it is by the Court this 10th day of APRIL, 1970,

ORDERED that the motion of defendant H. G. Smithy Company to dismiss and in the alternative for summary judgment be and it hereby is denied, and it is

FURTHER ORDERED that the motion of the Chillum Heights corporate defendants and Sidney Rothstein to dismiss or in the alternative for summary judgment be and it hereby is denied, and it is

FURTHER ORDERED that the motions of H. G. Smithy Company, Victor and Lydia Carone, and Mrs. Lewis Armstrong for a severance be and they hereby are denied, and it is

FURTHER ORDERED that the motions of defendants Victor and Lydia Carone and Mrs. Lewis Armstrong to dismiss and

in the alternative for summary judgment be and they hereby are denied without prejudice to said defendants to renew their motions for summary judgment when the plaintiff has completed its discovery, and it is

FURTHER ORDERED that all defendants shall have until May 18, 1970, to answer the complaint.

W. DORSEY WATKINS

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

UNITED STATES OF AMERICA,
Plaintiff,
vs.
MANAGEMENT CLEARING, INC.,
a corporation,
Defendant.

NO. CIV. 70-23-PHX. (CAM)

O R D E R

The defendant's Motion to Dismiss based on the argument that 42 U.S.C. 3613 is an unconstitutional delegation of legislative authority, that the Court lacks jurisdiction because the complaint fails to allege or show any facts or circumstances under which the Attorney General is authorized to file suit and that the complaint fails to state a claim upon which relief can be granted, having been fully heard in oral argument and the Court being fully advised in the matter,

IT IS HEREBY ORDERED that the Motion to Dismiss is denied.

DATED this 8th day of April, 1970.

H C A. Muecke
United States District Judge

MAY 24 1971

CIVIL RIGHTS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA
213 U. S. COURT HOUSE & CUSTOM HOUSE
MOBILE, ALABAMA 36602

1-097-155

DATE: MAY 18, 1971

TO: Mr. C. S. White-Spunner, Jr., P. O. Drawer E, Mobile, Ala. 36601
Mr. Henry C. Hagen, Housing Section, Civil Rights Division
U. S. Dept. of Justice, Washington, D. C.
Mr. William L. Irons, 1300 City National Bank Building,
Birmingham, Ala. 35203

RE: CIVIL ACTION NO. 6451-71 ADM. NO. _____ CR. NO. _____

UNITED STATES OF AMERICA VS. H. MELVILLE DAVIS, JR., ET AL.,

You are advised that on the 18 day of MAY
19 71, the following action was taken in the above-entitled
case by Judge PITTMAN:

Motion to dismiss filed by defendants on 2/3/71 and
submitted on 4/9/71 is DENIED.

Motion for change of venue filed by defendants on 2/3/71
and submitted on 4/9/71 is DENIED.

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DEPT.	3
MAY 21 1971	
R.A.O.	
CIV. RIGHTS DIV.	
RECORDED	

WILLIAM J. O'CONNOR, CLERK,

BY [Signature]
Deputy Clerk.

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Plaintiff,

- v -

70-Civ.1967

ALVIN GILMAN and MITCHELL EISEN,
d/b/a Gilman-Eisen Company,

Defendants.

APPEARANCES:

WHITNEY NORTH SEYMOUR, JR.
UNITED STATES ATTORNEY
Attorney for the United States of America
Southern District of New York
By: MICHAEL C. SILBERBERG, ESQ.
Assistant United States Attorney
Of Counsel

GILBERT & GILBERG, ESQS.
Attorneys for Defendants
22 West First Street
Mount Vernon, N. Y. 10550
By: David C. Gilberg, Esq.
For the Firm

CROAKE, D. J.

MEMORANDUM

This is an action brought by the Attorney General
of the United States, pursuant to Title VIII of the Civil
Rights Act of 1968 (82 Stat. 81), 42 U.S.C. § 3601, et seq.,

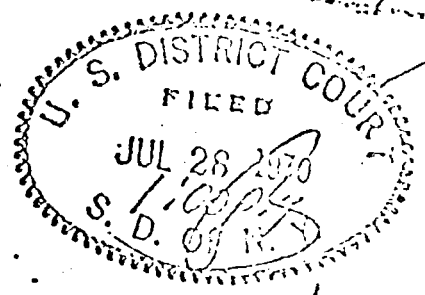


EXHIBIT 3

which seeks to enjoin a "policy and practice" of racial discrimination by defendants with respect to the rental of apartments in buildings owned and operated by them at 555 McLean Avenue, Yonkers, New York, and 2-4 Windsor Terrace, White Plains, New York. The complaint commencing this action was filed on May 14, 1970 and no answer has yet been filed by the defendants.

Defendants, Alvin Gilman and Mitchell Eisen, bring on this motion, pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, seeking an order for a more definite statement of the complaint on the ground that ". . . fails to comply with the provisions of § 3613 of the Public Health and Welfare Law (being Public Law 90-284, Title VIII, § 813, effective April 11, 1968), and that the complaint in this action fails to set forth any facts as specifically required by such law, but rather, conclusions . . . so vague and ambiguous that the defendants should not reasonably be required to prepare a responsive pleading . . ."

Rule 8(a) of the Federal Rules of Civil Procedure provides that federal pleadings shall contain no more than

a "short and plain statement of the claim showing that the pleader is entitled to relief . . ." A more definite statement of a plaintiff's claim, as requested by defendants in the instant case, is required by Rule 12(e) of the Federal Rules of Civil Procedure only when the pleading to which it is addressed is "so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading . . ."

A reading of the complaint in this case reveals that the allegations contained therein are neither vague nor ambiguous. The action brought by the Government seeks to enjoin a "policy and practice" of racial discrimination by defendants. In paragraph 4 of the complaint such "policy and practice" is alleged to include:

- 1) Making statements indicating that apartments will not be rented to Negroes;
- 2) Representing to Negroes that apartments are unavailable for rental when in fact apartments are available; and
- 3) Discriminating against Negroes in the terms and conditions of rental.

This Court finds that the complaint is plainly in conformity with the requirements of Rules 8(a) and

is patently sufficient on its face. It should be further noted that motions for more particular statements are not favored since pleadings in the federal courts are required only to give adequate notice of the claim, which the complaint in the present case clearly satisfies.

See Nagler v. Admiral Corp., 248 F.2d 319 (2d Cir. 1957); Fairmont Foods Co. v. Manzanello, 301 F. Supp. 832 (S.D.N.Y. 1969); MacDonald v. Astor, 21 F.R.D. 159 (S.D.N.Y. 1957).

Defendants advance the argument, in support of their motion, that the provisions of § 813 of the Civil Rights Act of 1968, 42 U.S.C. § 3613, are in derogation of Rule 8 of the Federal Rules of Civil Procedure and require evidentiary facts to be pleaded. No cases are cited in support of this proposition.

The courts have consistently refused to adopt the argument proposed by defendants and to construe this section as being in derogation of the requirements of Rule 8 that a complaint shall contain no more than a "short and plain statement of the claim showing that the

"pleader is entitled to relief." In three recent cases,
other federal district courts have rejected similar

arguments and sustained complaints under Title VIII
which are nearly identical to the one in this case.

Bob
See United States v. Lawrence Realty Co., Inc., et al.
(N.D.Ga. 1970, civil action # 13468); United States v.
Palm Beach Realty Listing Bureau, Inc. (S.D.Fla. 1970,
civil action # 70-379); United States v. Joseph and
Rose Miller, et al. (D. Md. 1970, civil action # 70-40).

Recently, the Tenth Circuit Court of Appeals
in United States v. Gustin-Bacon Division, et al.,

F.2d _____ 10th Cir. 1970, No. 71369) construing
a similar provision in Title VII of the Civil Rights Act
of 1964, governing discrimination in employment, held
that it did not require the Attorney General to plead
evidentiary matter. As stated by the Court:

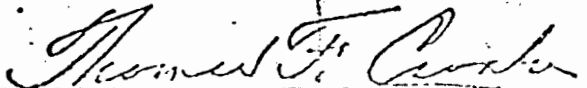
"By construing Section 2000(e)(6)(a) as a
trial court interpreted, is to reinstate a
type of fact pleading which was eradicated
by the current federal rules. Rule 8 of
the Federal Rules of Civil Procedure was
originally designed to circumvent the morass
caused by the Code pleading requirement
of pleading facts, constituting a cause of
action. As Professor Moore points out, the
requirement that facts be pleaded is illusory,
and unsound; and results in a battle over

"the form of pleading that does not advance the action to an adjudication on the merits." 2(a) MOORE'S FEDERAL PRACTICE § 8.12 at 1092. To reinstate this type of pleading even in the limited circumstances here involved is to directly contradict the spirit of Rule 8(a) and the general concept of modern federal pleadings. We find no suggestion in the Civil Rights Act of enactment which supports appellees' contention that Congress intended to require the Attorney General to revert to a detailed pleading of evidentiary matters."

Accordingly, defendants' motion is denied in its entirety.

SO ORDERED.

Dated: New York, N. Y.
July 23, 1970


THOMAS F. CROAKE
U. S. D. J.

SOUTHERN DISTRICT OF TEXAS
OFFICE OF THE CLERK

V. BAILEY THOMAS
CLERK

Houston, Texas
May 4, 1971

Re: CA 71-H-279 United States vs Margurette Jones, et al

Mr. Anthony J. P. Farris
United States Attorney
Houston, Texas

Messrs. Vinson, Elkins, Searls & Smith
First City National Bank Bldg
Houston, Texas 77002

Gentlemen:

Judge Carl O. Bue, Jr. has entered the following
order in the above case:

"4-30-71: Defendants motion for more definite statement is denied
since plaintiff's complaint is sufficient pursuant to
Rule 8, F.R.C.P. The information defendant seeks can be
more adequately secured by ordinary discovery methods.
Clerk will notify counsel.

COB"

Yours very truly,

V. Bailey Thomas, Clerk

By *Albert E. Anderson*, Deputy
Albert E. Anderson

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,
Plaintiff

: CIVIL ACTION

v.

IGNATIUS J. CHIRICO,
doing business as
SIDDALL REAL ESTATE
COMPANY,

Defendant

NO. 70-1851

MEMORANDUM AND ORDER

FULLAM, J.

August 12, 1970

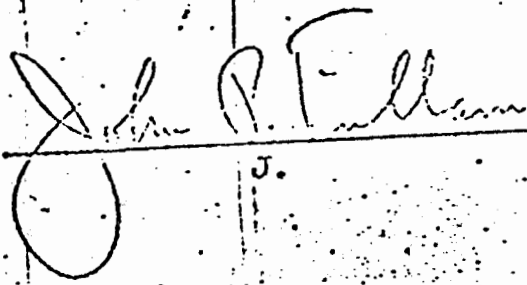
This is a suit brought under the Civil Rights Act of 1968, 42 U.S.C. §3601, et seq., by the United States of America to enjoin racial discrimination in the rental and sale of housing. The complaint states that defendant follows a policy of furthering segregation in housing and has refused to make available dwellings and negotiate for the sale or rental of housing to Negroes on account of their race. It also alleges that defendant has made statements to the effect that he would not make dwellings available to Negroes in at least one white residential area. Defendant has moved for a more definite statement under Fed.R.Civ.P. 12 (c) requesting that the persons with whom he has failed to negotiate and to whom he made statements of racial preference be named, and the specific occasions when such discriminatory acts occurred, and the properties involved be identified.

granted unless the complaint is so unintelligible that the defendant cannot frame a responsive pleading to it. As long as the complaint gives notice of the nature of the claims, it is sufficient. See Schaedler v. Reading Eagle Publication, Inc., 370 F.2d 795 (3rd Cir. 1967). Complaints based on statutes which prohibit discrimination against a general class of citizens need only allege that such a pattern of discrimination has been followed by the defendant and the general way in which he has fostered such discrimination. United States v. Building and Construction Trades Council of St. Louis, 271 F.Supp. 447 (E.D.Mo. 1966); United States v. International Brotherhood of Electrical Workers, 270 F.Supp. 233 (S.D. Ohio 1967) (discrimination in employment under 42 U.S.C. §2000, et seq.); see United States v. Gray, 39 U.S.L.W. 2057 (D.C.R.I. filed July 14, 1970). Specific instances of discrimination relied on by the government may be determined through discovery.

ORDER

AND NOW, this 12th day of August, 1970, it is

ORDERED that defendant's motion for more definite statement
is DENIED.


J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)

Plaintiff)

v.)

EXCLUSIVE MULTIPLE EXCHANGE,
et al.,)

Defendants)

No. C 70-969

O R D E R

LAMBROS, DISTRICT JUDGE

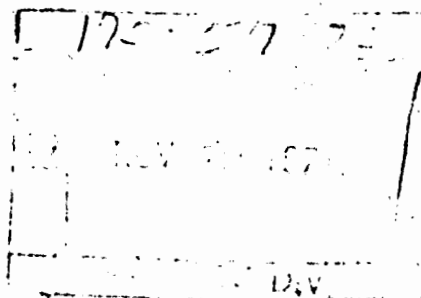
Upon consideration, the motion of the defendants for a more definite statement is denied. As stated by the Court in the case of United States v. Bob Lawrence Realty, Inc., 313 F.Supp. 870 (N.D.Ga. 1970) with respect to a similar motion:

"[T]he complaint, couched as it is in the very language of the statute, provides adequate notice of the claim made by plaintiff and is not subject to a motion for more definite statement. Any additional information to which defendant is entitled may be obtained by use of the discovery procedures provided by the Federal Rules." Id. at 873; see also United States v. Chirico, Case No. 70-1851 (E.D.Pa. Aug. 12, 1970)

IT IS SO ORDERED.

Thomas D. Lambros
United States District Judge

DATED: 10/11



UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION



UNITED STATES OF AMERICA)
)
) Plaintiff)
)
 v.)
)
) ARCO, INC., et al)
)
) Defendants)

4-11-70

CIVIL ACTION

NO. C-70-29

DOCKETED

MAR 23 1970

CIVIL RIGHTS

ORDER

In this action brought by the United States pursuant to Title VIII of the Civil Rights Act of 1968, 42 United States Code, §3601, et seq., defendants Robert F. Baird, d/b/a Bair's Realty Company, Edward Davis, d/b/a Edward Davis Realty Company, and Cornette Realty, Inc. have moved for a more definite statement of the allegations of plaintiff's Complaint, pursuant to Rule 12(c) of the Federal Rules of Civil Procedure.

The relevant paragraph of the Complaint alleges:

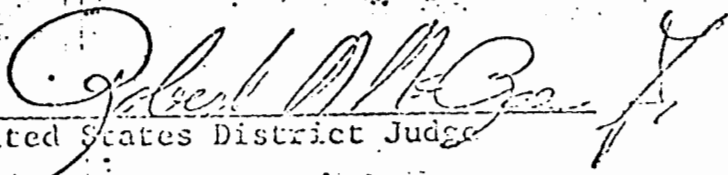
Pursuant to a policy and practice, the defendants have for profit induced and attempted to induce the owners of certain dwellings, occupied by white persons, located in the Cherokee Heights subdivision in Memphis, Tennessee, to sell those dwellings by representations regarding the entry and prospective entry of Negroes into the neighborhood. This conduct of the defendants is in violation of Section 804(e) of the Civil Rights Act of 1968, 42 U.S.C., §3604(e).

In the present Motions, defendants seek a more definite statement indicating the dates, places, and particular circumstances of the alleged acts and the names and addresses of the persons whom defendants allegedly induced or attempted to induce to sell their dwellings.

The Motions came on for hearing on March 13, 1970, and the Court, after full consideration of the issues, orders as follows:

The Motions of defendants Robert F. Baird, d/b/a Baird's Realty Company, Edward Davis, d/b/a Edward Davis Realty Company, and Cornette Realty, Inc., for a more definite statement are overruled. Defendants shall file answers to the Complaint on or before March 30, 1970.

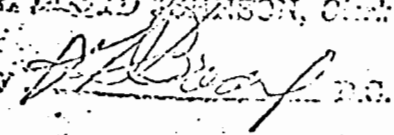
So ORDERED this 22 day of March, 1970.


United States District Judge

A TRUE COPY:

FILED:

MARSHALL JOHNSON, Clerk

By  Clerk

Handwritten initials

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SEP 7 1973
JOSEPH M. MELROY, JR., CLERK
Joseph M. Melroy, Jr.
Deputy

UNITED STATES OF AMERICA

Y
Y
Y
Y
Y
Y

VS.

CIVIL ACTION NO. CA 3-7243-E

MRS. DEAN MILES, d/b/a
DEAN MILES REALTY, et al.

ORDER

This matter is before the Court upon defendants' motions for a more definite statement. The pleading in question is the Complaint plaintiff filed under the 1968 Civil Rights Act, 42 U.S.C. 3601 et seq., alleging discrimination in housing.

After reviewing the Complaint and the authorities cited by both parties in support of their respective positions, the Court concludes as follows:

With respect to the motions for a more definite statement, the plaintiff has provided sufficient notice to the defendants of the Government's claims to enable them to frame a responsive pleading. The Complaint, paraphrasing the language of the statute itself, meets the requirements of the Federal Rules of Civil Procedure and is not subject to a motion for more definite statement. United States v. Bob Lawrence Realty, Inc., 313 F.Supp. 870, 873 (N.D. Ga. 1970). The Federal Rules provide ample opportunity for the defendant to discover the facts of plaintiff's case following joinder of the issue.

In consequence of this Court's conclusions, above, defendants' motions for a more definite statement is denied.

Entered this 7 day of September, 1973.

Edwin B. Mahon
UNITED STATES DISTRICT JUDGE

RECEIVED
UNITED STATES DISTRICT COURT
DALLAS, TEXAS
SEP 11 1973
AM 10:00
COMMUNICATIONS SECTION

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE DISTRICT OF SOUTH CAROLINA

CHARLESTON DIVISION

Civil Action No. 71-1262

FILED

APR 13 1972

WILLIAM C. FOSTER, JR., CLERK

UNITED STATES OF AMERICA,)

Plaintiff,)

-versus-)

J. C. LONG, individually)

and as Executor for the)

ESTATE OF FRANK J. SOTTILE,)

and THE WORTH AGENCY, a)

partnership,)

Defendants.)

ORDER

This matter is before the court upon defendants'

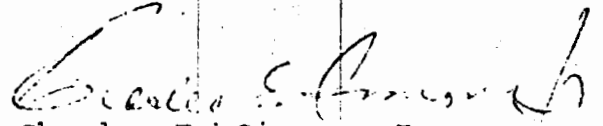
Motion for a More Definite Statement. The pleading in question is the within Complaint plaintiff filed under Title VIII of the Civil Rights Act of 1968, alleging discrimination in housing.

After reviewing the Complaint and the authorities cited by both parties in support of their respective positions, it is concluded that plaintiff provided sufficient notice to the defendants of the Government's claims to enable them to frame a responsive pleading. Although plaintiff's Complaint is couched in general terms, and in part follows the language of the statute, it does acquaint the defendants with the character of the violations charged. Such a pleading meets both the requirements of the Federal Rules of Civil Procedure, Burris v. Texaco, Inc., 361 F.2d 169, 175 (4th Cir. 1966); United States v. Bruce, 353 F.2d 474 (5th Cir. 1965), and 42 U.S.C.A. § 3613, the statute under which

(Handwritten initials and signature)
#1

it was filed.¹ See, Conley v. Gibson, 355 U.S. 41 (1957).
United States v. Gustin Bacon, 426 F.2d 539 (10th Cir. 1970);
United States v. Lynd, 301 F.2d 818 (5th Cir. 1962). Moreover,
since the Federal Rules of Civil Procedure provide ample
opportunity for the defendants to discover the facts of plain-
tiff's case following the joinder of issue and because the de-
fendants have already secured two extensions of time in which
to frame their responsive pleading it is concluded that the
defendants should respond to the Complaint in this case within
fifteen days of the entry of this Order.

AND IT IS SO ORDERED.

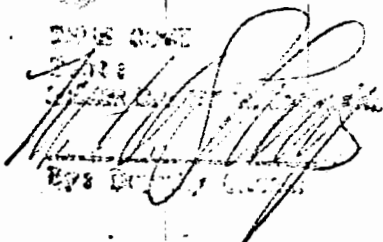

Charles E. Simons, Jr.

UNITED STATES DISTRICT JUDGE

#2.

Aiken, South Carolina

March 31, 1972.

2018 ONE
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Eys...

¹ The only ruling that was found which might support a different conclusion is contained in the case of United States v. Gustin-Bacon, 302 F.Supp. 759 (D.Kan. 1969); but that ruling by the District Court was reversed on appeal. 426 F.2d 539 (10th Cir. 1970).

CLERK, U. S. DISTRICT COURT,
SOUTHERN DISTRICT OF TEXAS
IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

FILED

JUL 27 1973

HOUSTON DIVISION

V. BAILEY THOMAS, CLERK
BY DEPUTY: *P. Thuleman*

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
V.) CIVIL ACTION
) NO. 72-H-993
THE JIM TUCKER COMPANY, INC.,)
)
Defendant.)

ORDER

Summary judgment is not a favored resolution of legal conflicts, and where there are genuine issues as to material facts, viewing the inferences in the light most favorable to the party opposing a motion, a motion for summary judgment must be denied. See, e.g., United States v. Diebold, 369 U.S. 654, 8 L.Ed.2d 176, 82 S.Ct. 993 (1962); Poller v. Columbia Broadcasting System, 368 U.S. 464, 7 L.Ed.2d 458, 82 S.Ct. 486 (1962); Harvey v. Great Atlantic and Pacific Tea Co., 388 F.2d 123 (5th Cir. 1968). The record is clear that the defendant's position is that it has not violated the law in the past by engaging in a pattern or practice of discrimination. Since implementing an Equal Opportunity Program in mid 1972, alleges the defendant, non-discriminatory practices will be even more vigorous in the future with severe actions being taken against non-complying employee-agents. On this record, concludes the defendant, there is no showing of a substantial threat of recurrent future violations which is the prerequisite to an injunction. United States v. W. T. Grant Co., 345 U.S. 629, 633 (1953); United States v. Oregon State

TRUE COPY I CERTIFY
ATTEST:
V. BAILEY THOMAS, CLERK
By *P. Thuleman*

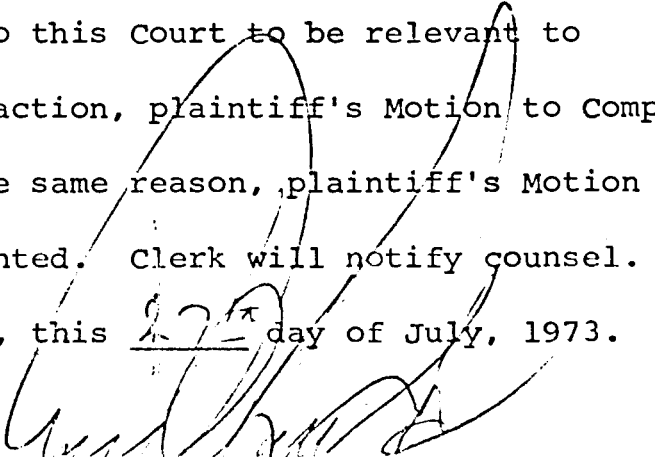
Medical Society, 343 U.S. 326, 333 (1952); United States v. Hunter, 459 F.2d 205 (4th Cir. 1972).

Accepting, but not deciding, the defendant's proposition of law, it is clear that the "burden is a heavy one" upon the defendant to show that there is no such reasonable expectation. W. T. Grant Co., supra, 345 U.S. at 633, 97 L.Ed. at 1309. The plaintiff disputes the defendant's position with respect to both past violations and contends that an injunction is necessary, not only to ensure that Mr. Tucker obeys the law, but also to ensure that his agents do so. The affidavits and materials submitted support inferences favorable to the plaintiff, and it appears to this Court that genuine issues do exist as to facts material to alleged past practices as well as to the need for injunctive relief. For these reasons, defendant's Motion for Summary Judgment is denied.

There being no prejudice to the defendant demonstrated by the plaintiff's somewhat tardy filing (a couple of days) of three affidavits, defendant's Motion to Strike Affidavits is denied.

In light of the plaintiff's assurances that interviews with agents still associated with the defendant will not be conducted unless the defendant grants permission to conduct such interviews, plaintiff's motion to compel answers to Interrogatory 6 is granted. The answers to Interrogatories 7, 8, 16 and 17 appearing to this Court to be relevant to the subject matter of this action, plaintiff's Motion to Compel Answers is granted. For the same reason, plaintiff's Motion to Produce Documents is granted. Clerk will notify counsel.

DONE at Houston, Texas, this 27th day of July, 1973.



Carl O. Bue, Jr.
United States District Judge

United States District Court

FOR THE

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

THE JIM TUCKER COMPANY, INC.

No. 72-H-993

TAKE NOTICE that the above-entitled case has been set for pre-trial at
 11 a.m. , on August 31 , 19 73 , at Houston, Texas
 before United States Magistrate Ronald J. Blask, room 12628,
 515 Rusk, Houston, Texas

Date August 2 , 19 73

V. BAILEY THOMAS

By

Rona O'Quinn ^{Clerk.}
 Rona O'Quinn Deputy Clerk.

To Mr. Norman P. Goldberg
 Mr. James R. Gough
 Mr. John A. Bailey

1. All motions, cross claims, amendments, and impleading of parties will be filed on or before _____.
2. All discovery will be completed on or before _____.
3. Jury is ___ is not ___ requested.
4. Estimated duration of trial: _____.
5. Other instructions:
6. Pre-Trial Order, Memoranda of Law and other pretrial material as specified in Judge Bue's Procedures are to be filed with the clerk not less than 3 business days before trial.
7. The case is set for Docket Call and Trial before Judge Bue at _____ o'clock on _____. The position of this case on the docket can be ascertained by contacting the Deputy Clerk.

* * * * *

Settlement negotiations are ___ are not ___ presently in progress. If the case is settled, and such announcement is made prior to trial, settlement papers will be submitted to Judge Bue before the trial date, OR counsel will appear in court on the date of trial to dictate the terms of the settlement into the record and the case will be dismissed at that time, the court retaining jurisdiction for the sole purpose of enforcing settlement. A NOTIFICATION OF SETTLEMENT BY TELEPHONE WILL NOT obviate the necessity of appearance on the scheduled trial date.

 A COPY OF "PROCEDURES TO BE FOLLOWED BY COUNSEL IN PREPARATION OF CASE FOR TRIAL FOLLOWING PRETRIAL HEARING" IS ENCLOSED. BRING THIS FORM WITH YOU TO THE PRETRIAL CONFERENCE.

Pretrial conference held _____

 H. Lingo Platter, U. S. Magistrate

We agree to and acknowledge the dates set out above, and acknowledge we have received a copy of Judge Bue's Procedures.

 Attorney for Plaintiff

 Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

JUDGE CARL O. BUE, JR.

PROCEDURES TO BE FOLLOWED BY COUNSEL IN PREPARATION
OF CASE FOR TRIAL FOLLOWING PRE-TRIAL CONFERENCE

I.

IN GENERAL

The paramount goal in the trial of a case is to accomplish a just result. The following guidelines are designed to assist in achieving such a result. If one or more of these procedures create a problem for counsel in any case, they will be discussed with the court and opposing counsel well in advance of the trial date.

Well prepared trials bring about the fairest and most expeditious verdicts. Well prepared counsel present the evidence most fully and clearly and create the most complete record for appeal, if one becomes necessary. The courts and lawyers must conserve the time and minimize the expense of juries, witnesses and the parties. They owe a duty to advance the administration of justice by making the trial an efficient and clear exposition of the real issues. The procedures set forth below are designed to expedite the reaching of a just result without impeding in any way the ability of a lawyer, as an advocate, to present his client's case fully, fairly and effectively:

II.

PROCEDURES TO BE ACCOMPLISHED

1. In this court detailed memoranda of law in support of each party's position must be filed with the clerk at least three business days before the trial, unless some other time is fixed by the court. This rule must be strictly complied with so that the court and the law clerks can be fully acquainted with the case which is to be tried. Such memoranda will dovetail with and support the issues raised by the parties in the Pre-Trial Order. In non-jury cases, counsel should be prepared to argue the case upon conclusion of the evidence, if the court feels it would be helpful in clarifying the issues.

2. The Pre-Trial Order will be filed with the clerk along with the memoranda of law at least three business days before trial. It should narrow the issues for the benefit of the court. Points of evidence reasonably anticipated to arise during the trial should also be set out along with supporting legal authorities. The court will review and rule on such questions of admissibility of evidence and objections before the trial commences. The Pre-Trial Order should generally contain the following matters, although the Order should be tailored to the requirements of the individual case:

- (a) Nature of the case.
- (b) Specification of issues.
- (c) Facts stipulated.
- (d) Facts in dispute.
- (e) Agreed applicable propositions of law.
- (f) Disputed propositions of law.

- (g) Such other information or data as the attorneys may deem pertinent and helpful.
- (h) List of witnesses (except rebuttal witnesses) and a concise but complete summary of the substance of each witness' testimony.
- (i) List of exhibits.
- (j) Estimate of time required for trial.

3. In non-jury cases each counsel will prepare and file with the clerk Proposed Findings of Fact and Conclusions of Law concurrently with the Pre-Trial Order and a Memorandum of Law. These Findings and Conclusions can be amended, if the proof adduced at the trial requires it. The legal authorities supporting each Proposed Conclusion of Law, where appropriate, should be set out directly under each Conclusion for ready reference by the court.

In jury cases each counsel will prepare and file with the clerk concurrently with the Pre-Trial Order and a Memorandum of Law any Proposed Charge including instructions or definitions to the jury along with supporting authorities, where applicable. Proposed Interrogatories to the Jury should be included by counsel so as to cover all ultimate fact issues to be resolved by the jury.

This court has a duty to insure that a proper jury charge is formulated and submitted to the jury. Counsel have a duty to this court to insure that Proposed Findings and Conclusions in non-jury cases and jury charges in jury cases are as thoroughly and professionally prepared as possible based on the applicable law and the evidence in the case. Such proposals of counsel will be regularly made a part of the record in the case after the jury has been charged and objections to the charge have been heard and ruled upon by the court.

4. The court is regularly available for conferences with counsel at a mutually convenient time prior to the trial date, if such a conference is necessary or advantageous to the parties. Normally, there will be no contact with counsel in the case initiated by the court between the pre-trial conference and the docket call of the case. All settlement discussions should be fully exhausted before the date of trial in order to minimize the expense and conserve the time and effort of the court, the parties and their counsel and the jury.

5. Counsel should notify doctors and expert witnesses well ahead of time of the date of the trial so that their depositions can be taken if they will not be available.

6. All exhibits, including sketches, models, diagrams or objects must be numbered and marked before the trial starts. All such exhibits will be offered and received in evidence as the first item of business at the trial. At least three business days before the trial starts, those exhibits to which objections are made will be numbered, marked and tendered, and the court will be notified of the objections in writing accompanied by supporting legal authorities, where appropriate. The court will rule on the admissibility of such exhibits before the trial commences, and objections of counsel will be preserved in the record. It is the obligation of any party who wishes to offer exhibits to comply with this procedure by tendering such exhibits to the other party or parties for examination and approval or objections as indicated above. In the absence of unusual circumstances, the court will deny the introduction of exhibits which are not presented pursuant to these guidelines.

7. If a portion of any deposition is to be read or summarized, counsel will notify opposing counsel and the court of his intention, (citing pages and lines inclusively) at least three business days before the trial starts (unless the necessity for using a deposition develops unavoidably thereafter). Opposing counsel will note his objections promptly to such portion or portions of the deposition (citing pages and lines inclusively) with supporting authority before the day of trial, and the court will rule on the objections before the trial commences.

8. All trials will commence at 10:00 a.m. unless counsel are notified to the contrary. The noon recess will normally run from 12:30 p.m. to 2:00 p.m. In a multi-day trial, the court will normally recess about 4:45 p.m. Counsel should bear in mind these hours of court, notify parties to be on time and arrange for witnesses accordingly. The court will not recess to permit counsel to call a missing witness, unless he has been subpoenaed and has failed to appear. In that case, the matter will be handled as the interests of justice require including the issuance of a bench warrant, where appropriate.

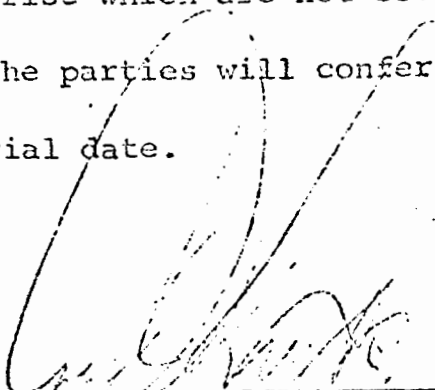
9. This court conducts the voir dire examination in jury cases. Counsel may submit proposed questions in writing to be propounded to the jury panel. These will be submitted three business days prior to the commencement of the trial for consideration by the court and, where appropriate, the court will make every effort to ask such questions of the prospective jurors as are thought to be relevant.

10. Counsel shall be in a position when the trial starts to move their respective portions of the case promptly. Every effort should be made by counsel to elicit from the witnesses only information which is relevant to the issues in the case and to avoid cumulative testimony. If counsel wish the Marshal or Bailiff to summon the witnesses from the witness room as needed, they should supply a list of witnesses to the courtroom clerk before the trial, setting forth the order in which they will be called.

11. If counsel will require a blackboard, viewbox or other equipment in the presentation of the case to the court or jury, the courtroom clerk should be advised before the trial commences so that proper arrangements can be made to obtain such equipment in advance, wherever possible.

12. Administrative and procedural handling of a case, once it is activated and a pre-trial hearing is held, will frequently require the Deputy Clerk and the law clerks at the request of the Court to be in contact with counsel. As arms of the court such personnel will be extended every courtesy and complete cooperation by the attorneys who will immediately return all telephone calls and promptly answer all written communications relative to their case, once they are received.

13. If any other matters arise which are not covered in the above procedures, counsel for the parties will confer with the court well in advance of the trial date.



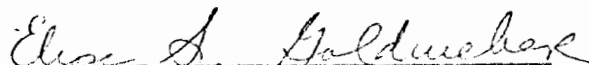
Carl W. Bue, Jr.,
United States District Judge

CERTIFICATE OF SERVICE

I, Elyse S. Goldweber, an attorney for the plaintiff, hereby certify that I have served a copy of the attached Notice of Motion of the United States to dismiss defendants' counterclaim, a copy of the attached Memorandum of the United States in Opposition to Defendants' Motion to Dismiss, Motion for More Definite Statement and in Support of Plaintiff's Motion to Dismiss the Counterclaim and a copy of the attached Memorandum of the United States in Response to the Affidavits of Donald Trump and Roy Cohn on the defendants by mailing a copy, postage prepaid, to their attorney at the following address:

Roy M. Cohn, Esq.
Saxe, Bacon, Bolan & Manley
39 East 68th Street
New York, New York 10021

This, the 4th day of January, 1974.


ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK
CIVIL ACTION NO. 73 C 1529

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.
★ JAN 8 1974 ★
TIME A.M.....
P.M.....

UNITED STATES OF AMERICA

Plaintiff,

v.

FRED C. TRUMP, DONALD TRUMP
and TRUMP MANAGEMENT INC.,

Defendants.

MEMORANDUM OF THE UNITED STATES IN RESPONSE
TO THE AFFIDAVITS OF DONALD TRUMP AND ROY COHN

HENRY A. BRACHTL
Assistant United States
Attorney
Department of Justice
Brooklyn, New York 11201

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
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IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

CIVIL ACTION NO. 73 C 1529

UNITED STATES OF AMERICA,
Plaintiff,

v.

FRED C. TRUMP, DONALD TRUMP
AND TRUMP MANAGEMENT INC.,

MEMORANDUM OF THE UNITED STATES IN RESPONSE
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IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

CIVIL ACTION NO. 73 C 1529

UNITED STATES OF AMERICA,
Plaintiff,

v.

FRED C. TRUMP, DONALD TRUMP
AND TRUMP MANAGEMENT INC.,
Defendants.

MEMORANDUM OF THE UNITED STATES IN RESPONSE
TO THE AFFIDAVITS OF DONALD TRUMP AND ROY COHN

Ostensibly in support of their pending motions, defendants have filed the affidavits of Donald Trump, a named defendant, and Roy Cohn, their attorney. The only matters before the Court, based on the pleadings hereinbefore filed, are defendants' motions to dismiss the action and for a more definite statement and plaintiff's motion to dismiss the counterclaim. Since such motions are all

addressed exclusively to the pleadings, and require no factual elaboration, and since there is no suggestion in defendants' papers that they seek summary judgment, the affidavits serve no purpose germane to any issue before the Court. The counterclaim seeks the nice round sum of \$100,000,000 in damages, and since defendants announced its filing at a press conference at a major hotel, the inference is reasonable if not compelling that the purpose of the filing of the affidavits was extrajudicial. Since these affidavits accuse the United States and its counsel of misconduct, we think it appropriate, in spite of their irrelevancy to the issues directly before the Court, to file at least a brief response. */

I. Alleged Baselessness of the Complaint

In an affidavit characterized by what must be remarkable powers of extrasensory perception, which enable the affiant to read the mind both of the Court and of opposing counsel, Mr. Cohn has stated under oath, among other things, that:

*/ There being no specific matter before the Court for which affidavits would be appropriate, we have not responded by affidavit. Most of the facts discussed herein are based on the pleadings and associated papers previously on file. The remaining facts - primarily those dealing with the press release and with notice of the suit to defendants - are true to the best of the knowledge of the undersigned counsel for the United States, and, so far as we know, undisputed.

1. "It appears certain that [the Government] will be entitled to no relief."

2. "The Government has no facts to support the charges. If they [sic] did, they would be stated in the complaint. This action was brought to coerce the defendants into making a settlement and nothing more."

3. The United States is "merely fishing for facts upon which it can base its case. These facts do not exist and the Government knows they do not exist." (emphasis added)

Mr. Cohn has thus sworn not only that the complaint is baseless, but that he is personally familiar with opposing counsel's malicious state of mind. He claims to know with sufficient certainty to swear to it that counsel for the United States deliberately violated the provisions of Rule 11 of the Federal Rules of Procedure, which forbids counsel from signing a pleading which he knows to be false.

The sole stated basis for Mr. Cohn's certitude that the allegations in the complaint were fabricated by counsel for the United States is that plaintiff did not plead evidence in the complaint, and subsequently propounded interrogatories to defendants. Even the most superficial inquiry would have disclosed to the affiant that evidentiary facts need not and should not be pleaded in a complaint of this nature */, and that all parties - including plaintiffs - may

*/ See the unanimous line of decisions collected at pages 5-6 and 12-13 of our brief in opposition to the motions to dismiss and for a more definite statement.

conduct discovery after filing an action of this kind. Any responsible litigant conducts discovery, and there is no basis in reason or authority to suggest that a party's propounding of interrogatories to his adversary implies that its case is in any respect infirm. */ Simple interrogatories addressed to plaintiff, which defendants still have not propounded, would have disclosed to the affiant that the United States has evidence of recent acts of discrimination at a substantial number **/ of different Trump complexes together with substantial additional evidence of discrimination provided by the Commission on Human Rights of the City of New York and by other persons and organizations with knowledge of pertinent facts. Accordingly, it is apparent that facts directly contrary to counsel's affidavit were readily ascertainable by the affiant but not ascertained by him prior to filing the affidavit. ***/

*/ See, e.g. United States v. Procter & Gamble, 356 U.S. 677, 682-83 (1958), in which the Supreme Court described how discovery makes a trial "less of a game of blind man's buff and more a fair contest."

**/ This number has since been increased by further investigation and may well rise further as discovery proceeds.

***/ The very newspaper clippings which counsel attached to his affidavit disclose that the City Commission and the Urban League provided information to the United States, but counsel's affidavits disclose no inquiry with these organizations. There has likewise been no suggestion of an exchange of informal discovery, which would then have been forthcoming, and could have provided defendants with information contrary to the content of Mr. Cohn's affidavit.

II. Alleged Coercion of Defendants to Settle

Mr. Cohn's affidavit accuses the Government of attempting to bring "unlawful and undue pressure upon the defendants to settle this case" by "immediately approaching the defendants to quickly terminate the litigation by entering into a Consent Decree dictated by the Civil Rights Division." The allegation of pressure, due or undue, lawful or unlawful, is completely false.

A copy of a letter from counsel to plaintiff responding to an inquiry by counsel for defendants regarding a possible consent decree is attached hereto.^{*/} The letter, to which defendants never responded, recites that it was sent following a communication by counsel for defendants to Mr. James D. Porter, Jr., Chief of the Civil Division of the United States Attorney's office. On its face, the letter proposed relief customary in suits under 42 U.S.C. 3613, and makes it unmistakably clear that no ultimatum was intended. It relates that "alternative steps" to accomplish the same result [equal housing opportunity] may be given appropriate consideration. It states that counsel for plaintiff is ready to meet and negotiate with counsel for defendants. It explicitly invites counterproposals. The letter also makes it clear that plaintiff does not want negotiations

^{*/} See Ex. 1.

to delay the litigation, */ but seeks to achieve equal housing opportunity promptly one way or the other. This is still plaintiff's position, and it is consistent with the Attorney General's responsibilities under 42 U.S.C. 3613.

III. "Capitulation to the Welfare Department"

At page 3 of his affidavit Mr. Cohn swears that the real purpose of this suit is a press release "announcing the capitulation of the defendants and the substitution of the Welfare Department for the management corporation." In the New York Post of December 12, 1973, Mr. Donald Trump is quoted as claiming that plaintiff is trying to force defendants to rent to welfare recipients ". . . who do not otherwise qualify for our apartments in our buildings." These statements suggest that it has been the policy of the United States to seek to require landlords, including the Trumps, to waive their general rental criteria for persons who are on welfare. This is not true, and the falsity of the allegation is apparent from the face of pertinent documents, especially the amended consent decree in United States v. Life Realty Inc., Civil Action No. 70 C 964, copy attached hereto.**/

*/ Or, for that matter, dilatory motions addressed to pleadings, where the facts sought to be elicited by such motions can so easily be secured through interrogatories.

**/ See Ex. 2.

No proposal has ever been communicated by plaintiff to defendants at all about welfare recipients. The only possible basis for defendants' accusations about this is the consent decree negotiated with Life Realty Co., which was given to defendants at the request of Mr. Abraham Lindenbaum, who was then acting as their counsel and asked the United States Attorney's office to provide him with a copy. In fact, the letter from counsel to plaintiff to present counsel for defendants' dated November 7, 1973 responding to defendants' expressed interest in a consent decree, contains no mention of welfare recipients at all. */

The consent decree in Life Realty Co.--even if it had been proposed to defendants as a model for this case, which it was not - does not require the Life Realty Co. to rent to persons on welfare who fail to meet the landlord's standard rental qualifications. On the contrary, the decree requires defendants to rent to all applicants

*/ A copy of this letter is attached hereto. Mr. Cohn is therefore in the curious position of having sworn , in effect,

1. that the United States has brought this suit to put unqualified welfare recipients into Trump buildings; and yet
2. that it has sought to bludgeon the defendants into signing a consent decree which makes no mention of welfare recipients.

equally, regardless of the source of an applicant's funds, */ on the basis of the rental standards previously negotiated by the parties and approved by the Court. In fact, a black woman who is also a welfare recipient brought suit against the United States and its officers, as well as against Life Realty Co., et al., alleging that the consent decree discriminated against persons on welfare. The Court found no basis for the suit against the United States. Boyd v. United States, 345 F. Supp. 790 (E.D. N.Y. 1972). Accordingly, the attribution of this malign purpose to the United States is not only inconsistent with the other evil deeds which Mr. Cohn has ascribed to us, but also lacks any support whatever in the record of this case or of any other case.

*/ If they were unable or unwilling to read the Life Realty decree before filing their affidavits, Mr. Trump and Mr. Cohn could have contacted the voluble Mr. Samuel Lefrak of Life Realty. Mr. Lefrak is quoted in the New York Times of December 13, 1973 as expressly denying that the consent decree in Life Realty requires him to rent to persons on welfare who do not meet the other objective rental standards. Mr. Lefrak's explanation in the New York Times conforms to the provisions of the consent decree.

IV. Notice to Defendants

The affidavit of Donald Trump alleges that he was "shocked" to hear that this suit had been brought, because he had not received any "formal communication whatever" about the subject matter of this action, and because "the first I heard about it was on my car radio the morning of the 15th," the date the complaint was filed. Mr. Trump's words are carefully chosen to make it appear that the suit was a complete surprise based on no investigation, and that news of it was released to the press without defendants being notified. That is quite different from what in fact occurred.

First, we note that, unlike defendants, the United States held no press conference in which the "real motivations" of their adversaries were discussed, intuitively or otherwise. A simple press release, a copy of which is attached^{*/}, and which states no facts about the Trumps which are not in the Complaint, was released to the press shortly after the Complaint was filed and had become a matter of public record. The case was certainly one of general public interest, and it is both the right and the responsibility of the Public Information Office of the Department of Justice to disclose matters of public record to the press. Equal housing opportunity would provide little practical benefit to anybody if steps to assure it were taken secretly, so that prospective beneficiaries could never learn of them.

^{*/} See Ex. 3.

Even if defendants' allegations that news of the suit was released to the media before the defendants were notified were true, this would not have been unlawful. Unlike some other civil rights statutes, */ 42 U.S.C. 3613 does not require pre-suit notice to or negotiations with prospective defendants. See United States v. Luebke 345 F. Supp. 179 (D. Colo. 1972). Even though no such notice is required, however, it is the general practice of the Civil Rights Division to notify defendants of suits, as a matter of courtesy, before the media report them, and this procedure was followed in the present case. The defendants have seriously distorted the events which occurred when suit was filed by omitting critical facts from their affidavits.

This suit was filed shortly after 10:00 A.M. on October 15, 1973. Shortly thereafter, Departmental Attorney Judith Wolf telephoned both Mr. Durban of Durban and Tosti, attorneys and statutory agents for the defendants, and defendant Donald Trump and advised each that the suit had been filed. This was accomplished no later than 10:30 A.M., well in advance of any dissemination of the news by the media, for the press release was not issued until after the case was filed. Mr. Trump expressed no awareness of the suit when Ms. Wolf spoke to him.

*/E.g. 42 U.S.C. 2000c-(6) (school desegregation); 42 U.S.C. 2000e-5(a) (employment discrimination suits by private parties).

Mr. Trump's affidavit fails to mention Ms. Wolf's telephone call at all, except by the artful use of the phrase "no formal communication" in denying notice of the suit. By claiming that no "formal" communication was received, Mr. Trump implicitly admits - as he must - that he received what he chooses to characterize as "informal" notice by means of Ms. Wolf telephone call. We submit that the presentation of this incident by affidavit without any mention of an event which completely changed the character of the transaction has the foreseeable effect of misleading anyone who reads it.

CONCLUSION

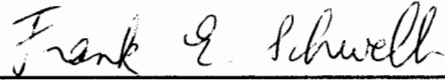
Were it not for the extraordinary intimations of impropriety in the affidavits submitted by defendants, we would not have burdened the Court with material which is so remote from the merits of the motions now before the Court. We believe, however, that the foregoing discussion conclusively establishes the propriety of the conduct of counsel for the United States and the baselessness of the sworn changes submitted on behalf of defendants. The existence of substantial basis for the suit will be demonstrated beyond peradventure if defendants ever get around to a serious effort to elicit the facts by discovery.

If the entire controversy has any relevance to the issues in this case, it is to establish that defendants and their counsel made serious but baseless allegations, the insubstantiality of which could easily have been discovered by them.

Respectfully submitted,



HENRY A. BRACHTL
Assistant United States
Attorney
Brooklyn, New York



FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530



ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530

EXHIBIT 1

T. 11-7-73

NOV 7 1973

JSP:FES:ESG:cmk
DJ 175-52-28

Mr. Michael Rosen
Saxe, Bacon, Bollan and Manley
39 East 68th Street
New York City, New York 10021

Re: United States v. Fred C. Trump, Donald Trump
and Trump Management Inc. C.A. No. 73 C 1529

Dear Mr. Rosen:

I am writing to you in response to information that Jim Porter has conveyed to me indicating that your clients might be interested in negotiating a Consent Decree with the United States in the above-mentioned lawsuit. This Department, while certainly not desiring to delay the litigative process is at the same time amenable to affording the defendants the opportunity to enter into a Consent Decree. If a Consent Decree could be negotiated, the question whether there have been violations in the past need not be resolved, and any such decree would ordinarily be entered without adjudication of the merits.

The specifics of a Consent Decree, of course, depend on the specifics of each case, and if your clients are interested in negotiating a Decree, it will be necessary for us to obtain further information in order to formulate the details of appropriate relief. However, on the basis of the information we have as a result of our investigation

prior to the filing of the complaint in this action, we believe the Decree should prohibit all discriminatory practices and should include, at a minimum, provisions such as those described below. Let me stress that these provisions are not necessarily exhaustive, and that alternative steps to accomplish the same result may be given appropriate consideration:

1. Instructing all employees in detail as to their responsibilities under the civil rights laws and under the Consent Decree;
2. Including in all advertising, leases, brochures and other materials relating to renting of apartments, an appropriate fair housing statement, such as the slogan and logotype approved by HUD;
3. Taking appropriate steps to acquaint blacks and Puerto Ricans with their opportunity to live at Trump buildings. This might be accomplished by advertising on a periodic basis in media which primarily serve the non-white community the availability of apartments in all geographical areas, and by sending vacancy reports on a periodic basis to local groups which assist black and Puerto Rican persons in obtaining housing;
4. Devising and implementing an affirmative action program for the recruitment and hiring of black and Puerto Rican superintendents and renting agents;
5. Devising and implementing objective and uniform rental standards, and procedures;
6. Placing victims of unlawful discriminatory practices, as far as possible, in their rightful place including financial compensation as appropriate;
7. Periodically sending to the court and to this Department reports on the implementation of the Consent Decree, so that the effectiveness of the steps taken may be evaluated. Maintenance of appropriate records with

racial identification would be necessary to enable us to make an appropriate evaluation of the adequacy the affirmative action program.

It would also be necessary, during the discussion of a Consent Decree, for our representatives to inspect appropriate company records and obtain certain information pertinent to relief.

We will, of course, be happy to meet with you and your clients to discuss the terms of a Consent Decree consistent with the principles set forth herein, as well as any counterproposals which you may have. Please feel free to contact me at (202) 739-4132 if you have any questions concerning the matters set forth in this letter.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By:
ELYSE S. GOLDWEBER
Attorney
Housing Section

cc: Mr. Jim Porter
Assistant United States Attorney

EXHIBIT 2

RAM:pro
F. 700827

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA

Plaintiff

-against-

LIFE REALTY, INC., et al.

Defendants

CONSENT ORDER

Civil Action
No. 70 C 964

----- X

I. The Apartment Leasing Corporation of America (Leasing), which manages all the buildings which are listed on Attachment "A" hereto, submits to the jurisdiction of this Court, and warrants to the Court that it has the power and authority to carry out the provisions of those paragraphs of this Order directed to it, subject to liability for contempt for failure to carry out such provisions. Said Leasing consents to be a party-defendant to this action, without amendment of the complaint. Accordingly, IT IS SO ORDERED.

II. IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the complaint against the following individuals: Samuel J. Lefrak, Anthony Cuccia and Rheba Gelman, is dismissed against them in their personal capacities, with prejudice as to the allegations with respect to the buildings set forth in Attachment "A" hereto, predating this Order.

III. IT IS FURTHER ORDERED, that Life Realty, Inc., Leasing, their agents, employees, successors^{1/}, and all

1/ For the purpose of this order the term "successors" shall be defined as follows: The successors of Life Realty, Inc. include any person or group of persons who in the future may act as rental agent for any of the buildings in Brooklyn rented by Life Realty, Inc. at the time this decree is entered, unless the ownership of any such building shall be changed in a bona fide arms' length transaction.

Further, for the purpose of this Order the successors of Apartment Leasing Corporation of America shall include any person or group of persons who in the future may act as managing agent for the buildings in Brooklyn listed on Attachment "A" hereto, unless both the ownership and management of any such building in Attachment "A" shall be changed in a bona fide arms' length transaction. The defendants will notify the plaintiff at least thirty (30) days prior to any projected transfer of title.

those in active concert or participation with any of them^{2/}, are permanently enjoined with regard to the buildings in Brooklyn named on Attachment "A", from:

A. Representing to any person, because of race, color, religion or national origin, that any dwelling is unavailable for inspection or rental, when such dwelling is in fact available; and

B. Making unavailable or denying any dwelling to any person on account of race, color, religion or national origin.

IV. In order to assure nondiscriminatory assignment of tenants, and to encourage integration of the buildings listed on Attachment "A" hereto, Life Realty, Inc. will

A. Maintain a date and time-punch clock in its rental office in Brooklyn, and stamp every application which is submitted together with a \$25.00 deposit, with the date and time of filing;

B. On Wednesday of each week, compile a list of apartments for which Life Realty, Inc. is rental agent, believed to be available for rent, including the size, rent, (specifying whether utilities are included), the address of the building, and the probable date when a new tenant may take occupancy;

C. Display such list of available apartments at all times after it is compiled in a prominent place in its Brooklyn office, and include on the current weekly list all apartments available for rent;

D. Eliminate from said list apartments for which incumbent tenants have reserved orally or in writing since its listing, or for which application with a \$25.00 deposit has been received, by striking such apartment from the list. Whenever application is made for any apartment appearing upon the list, the application shall be recorded with the name and race of the applicant as provided for in paragraph E. below, and date and time of filing in a daily log, as more fully set forth below.

E. Maintain for two years from the entry of this decree, as a daily log, all applications filed (retaining the original applications), with the following information:

2/ As used in the remainder of this Order, the terms "Defendant" or "Defendants", or the named defendants, include employees, agents, successors, assigns, and all those acting in concert or participation with any of them.

1. The name of the applicant and his or her race (Black, White or Other) as perceived by the defendants' agents, unless race has been voluntarily furnished by the applicant on a form such as the one attached hereto as Attachment "B";

2. The building, the apartment applied for, the date and time of filing, whether the applicant was accepted or rejected and, if the applicant was rejected, the reason therefor.

F. Accept applications only for specific available units in the Brooklyn buildings appearing on Attachment "A" hereto, and will not take applications which fail to specify a particular unit;

G. Within thirty (30) days of the entry of this Order, mail to every tenant in the buildings listed on Attachment "A" hereto the first list of available apartments to be published pursuant to paragraph B. above, together with a statement that such apartments are available on a first-come, first-served basis (provided that the applicant meets the qualifications set forth in Part 7. of this Order), and that similar lists may thereafter be viewed at Life Realty, Inc. offices at 1790 Flatbush Avenue, Brooklyn, New York.

V. The defendants will:

A. Post and maintain in the Life Realty, Inc. offices in Brooklyn, in a prominent place, where it is clearly visible to all applicants, a sign reading as follows:

"UNDER THE FEDERAL FAIR HOUSING ACT OF 1968, ALL APARTMENTS RENTED THROUGH THIS OFFICE SHALL BE AVAILABLE WITHOUT REGARD TO RACE, COLOR, RELIGION OR NATIONAL ORIGIN"

B. Through a joint press release with the plaintiff, or otherwise, communicate to the general public, including members of minority groups, their policy favoring integration in housing;

C. Adopt and implement the following standard procedure for approval of all applicants for apartments:

1. All applicants will indicate upon their applications:

(a) Home address, age, sex, marital status and name of spouse, relative or other person who will live in the apartment;

(b) Employment, address of employer, gross salary, net salary after withholding tax, other income and obligations on installment contracts, conditional sales, bank loans, finance company loans, mortgage loans, payments required to be made on judgments, garnishments, and all other information showing, on a monthly basis, the obligations (in amounts) of the applicant; and the same information, together with the age for any working spouse or other person who will live in the apartment;

(c) The name of any bank in which any or all adult applicants maintain either a checking account or savings account;

(d) Former residence and landlord of all prospective occupants;

2. The information furnished pursuant to paragraphs (a) through (d) above, will be verified by defendants and if it proves accurate, an appropriate indication will be made on the application or on an accompanying form as to whether verification has been made;

3. If the applicant is rejected, the reasons for the rejection shall be entered upon the application and the applicant will be informed within five days thereafter of the fact of his rejection;

4. If the information furnished by the applicant has been verified by defendants, and if he has been a satisfactory tenant at his prior residence, and if his net income per week, after deduction of the obligations listed in V. C. 1. (b) of this Order on a weekly basis, proves to be equal to at least 90% of the monthly rental of the apartment for which he has applied, no further investigation shall be conducted, and the applicant shall be accepted or rejected on the basis of information already available. No applicant shall be rejected for failure to have a checking or savings account at a commercial bank, if said failure was truthfully stated by the applicant in his application;

5. If any item furnished by the applicant cannot be verified, or if he has proved to be an unsatisfactory tenant at his prior residence, or if his net weekly income

as defined above is less than 90% of the monthly rental, such further and additional investigation may be conducted as may be judged necessary to determine the applicant's acceptability as a tenant, provided only that the extent of such additional investigation may not be determined or affected by the applicant's race, color, religion or national origin.

VI. A. Within thirty (30) days of the entry of this Order, Life Realty, Inc. will mail to each tenant in the buildings known as the West Point, Cornell, Princeton, Purdue, Syracuse, Northwestern and Clarkson Terrace, a notice in the form attached hereto as Attachment "C", and the defendants shall carry out the obligations described in said Attachment "C", which is made a part of this Order by reference.

B. Beginning no more than thirty (30) days from the entry of this Order, Life Realty, Inc. will maintain in its Brooklyn office a weekly "Special List" to be posted on Wednesday morning of each week, showing all those apartments known to be available in any building on Attachment "A" (other than those named in paragraph A. hereof), which will be available for occupancy no less than four weeks from the posting date. This special list will specify the price, size, rental, and whether utilities are included in the rent, and the date on which the apartment will be available for occupancy.

C. The special list described in paragraph B. above shall be available by written application with a \$25.00 deposit until 5:00 P.M. of each Friday, exclusively to tenants of the seven buildings named in paragraph A. above, whose occupancy, as determined by lease date, shall have commenced after January 1, 1969 and prior to August 1, 1970. After 5:00 P.M. on each Friday the apartments on the special list shall be incorporated into the general list described in Part IV., paragraphs B. and C. of this Order.

D. Tenants in the aforementioned seven buildings who apply for any apartment on either the special or regular list at least four weeks prior to projected occupancy, and who qualify for said apartment under Part V. C. of this Order, will be released from their lease obligation and permitted to take occupancy of the new apartment without any penalty or sacrifice of security deposit, except in relation to liability for damage to the apartment vacated.

E. The provisions of Part VI. hereof shall terminate after one year from the first posting pursuant hereto, or after fifty (50) families of the named buildings shall have transferred to other buildings pursuant hereto, whichever is sooner.

VII. A. The defendants will, beginning ten (10) days after the entry of this Order, maintain the following records:

1. The log of applications described in Part IV. above, such log to designate tenants transferring pursuant to Part VI. hereof;

2. All applications, whether accepted or rejected, with accompanying credit checks and leases. Defendants will keep these records available for periodic inspection by the plaintiff's representatives for two years from the entry of this Order.

B. No less than three months and ten days from the entry of this Order, and thereafter at three-months intervals for two years, the defendants will prepare and send to counsel for plaintiff, reports including the following data: The total number of applications received, indicating the buildings for which applications were made; the name, address and race of the applicant; whether or not the applicant was accepted or rejected and, if rejected, the reason for the rejection. Defendants may fulfill their obligations under this paragraph by

forwarding to the plaintiff at the prescribed intervals copies of the log which they have kept pursuant to Part IV. of this Order. In addition to the foregoing, the defendants shall mail to counsel for plaintiff, as part of each report, a copy of each special list as defined in Part VI. B. of this Order. All notices and reports shall be addressed to Chief, Housing Section, Civil Rights Division, United States Department of Justice, Washington, D. C. - 20530.

VIII. IT IS FURTHER ORDERED, that whenever any future complaint arises under the provisions of this Order, except where the Government determines that there exists a need for emergency relief threatening the effectiveness of this decree, the Government shall furnish the defendants the name of the person who made such complaint and a brief description of the nature and substance of the complaint, including the date of the alleged incident and the building with respect to which the complaint was made. Thereafter, the defendant shall have fifteen (15) days from the date notice is received of such complaint and the nature thereof, to investigate such complaint, and if the complaint is determined by defendants to be valid, to advise the Government what steps, if any, have been taken to correct the conditions leading to the complaint; or, if the complaint is determined by defendants to be invalid, to advise the Government of the basis for determining the complaint to be invalid, before the Government shall apply to this Court with any motion for an Order to Show Cause or any other motion to compel compliance with this Order. If the Government determines that a situation has arisen threatening the effectiveness of this decree, and that there is a need for emergency relief, notice to the defendants shall be by telephone without the filing of any papers; and the Court, after consulting orally with both

parties by telephone, shall decide whether an emergency exists. If the Court determines that an emergency in fact exists, plaintiff may proceed to move for immediate relief without necessity for the fifteen (15) days' notice provided herein.

IX. Two years from the date this decree is entered, or thereafter, the defendants may move to dissolve this Order. If the United States fails to interpose any objection within thirty (30) days of the Notice of Motion, the injunction shall be dissolved and the complaint dismissed without a hearing or further Order of the Court.

X. No costs incurred prior to the date of this Order shall be assessed against the defendants in light of their agreement to take the affirmative steps described in this Order and in the simultaneous extrinsic agreement between the parties to this Order.

XI. The Court shall retain jurisdiction of this action for all purposes.

Dated: Brooklyn, New York,
January 28, 1971.

/s/ Jack B Weinstein
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK

Without any adjudication of the merits, and without any admission by any party as to the existence or ab-

sence of liability, the undersigned apply for and consent to the entry of the above Order.

FOR THE PLAINTIFF

Jerris Leonard
JERRIS LEONARD
Assistant Attorney General
Civil Rights Division
U. S. Department of Justice

Edward R. Neaher
EDWARD R. NEAHER
United States Attorney
Eastern District of New York

Robert A. Morse
ROBERT A. MORSE
Chief Assistant U. S. Attorney
Eastern District of New York

Frank E. Schwelb
FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice

Miriam R. Eisenstein
MIRIAM R. EISENSTEIN
Attorney, Department of Justice

Richard L. Master
RICHARD L. MASTER
Attorney, Department of Justice

FOR THE DEFENDANTS

Anderson & Allegaert
ANDERSON & ALLEGAERT
Attorneys for Life Realty, Inc.

Goldstein, Gurfein, Shames & Hyde
GOLDSTEIN, GURFEIN, SHAMES & HYDE
Attorneys for Apartment Leasing Corporation of America

Leonard Schoffman
LEONARD SCHOFFMAN
President, Life Realty, Inc.

Irwin Schoffman
IRWIN SCHOFFMAN
President, Apartment Leasing Corporation of America

ATTACHMENT "A"

<u>OWNER</u>	<u>ADDRESSES IN BROOKLYN, NEW YORK</u>
Amherst Leasing Corp.	845 - 43rd Street
Annapolis Leasing Corp.	2815 Coyle Street
Arcadia Leasing Corp.	3232 Shore Parkway
Atlantis Leasing Corp.	3235 Emmons Avenue
Bel Air Leasing Corp.	2775 East 12th Street
Belt Parkway Constr. Corp.	2625 East 15th Street
Buick Leasing Corp.	2626 Homecrest Avenue
Citadel Leasing Corp.	1 Prospect Park Southwest
Colgate Leasing Corp.	4411 Church Avenue
Cornell Leasing Corp.	665 New York Avenue
Dakota Leasing Company	2425 Nostrand Avenue
Danbury Leasing Company	388 Avenue X
Dartmouth Leasing Corp.	4114 Ninth Avenue
Delaware Leasing Company	7705 Bay Parkway
District Leasing Corp.	250 East 38th Street
Dodge Leasing Corp.	950 Rutland Road
Dover Leasing Corp.	2375 East 3rd Street
Georgetown Leasing Corp.	170 East 4th Street
Hampton Leasing Corp.	3205 Emmons Avenue
Harvard Leasing Corp.	4190 Bedford Avenue
Hollywood Leasing Corp.	2750 Homecrest Avenue
Iowa Leasing Company	2401 Nostrand Avenue
Kings Highway Property Corp.	3900 Kings Highway
Life Management Corp.	2021 East 41st Street
Minnesota Leasing Corp.	1145 East 35th Street
Montauk Leasing Corp.	3191 Emmons Avenue
National Realty Co.	1640 Ocean Parkway
National Realty Co.	8301 Bay Parkway
National Realty Co.	35 Pierrepont Street
Nautilus Leasing Corp.	2790 Bragg Street
Newport Leasing Company	444 Avenue X
North Carolina Leasing Co.	2501 Nostrand Avenue
Northwestern Leasing Corp.	452 East 96th Street
Oxford Leasing Corp.	288 Bay 38th Street
Plymouth Leasing Corp.	410 Avenue X
Pontiac Leasing Corp.	2611 East 13th Street
Portland Leasing Corp.	2411 East 3rd Street
Purdue Leasing Corp.	450 Rockaway Parkway
Rakfel Realty Corp.	2047 Nostrand Avenue
Rakfel Realty Corp.	2054 Nostrand Avenue
Rakfel Realty Corp.	2064 Nostrand Avenue
Regent Leasing Co.	1035 Clarkson Avenue
Stanford Leasing Corp.	1625 Rockaway Parkway
Syracuse Leasing Corp.	1115 Willmohr Street
Tri Buildings	7410 Ridge Boulevard
Tri Buildings	7420 Ridge Boulevard
Virginia Gardens, Inc.	3502 Kings Highway
West Point Leasing Corp.	333 East 92nd Street
Westport Leasing Corp.	2800 Coyle Street
Wetherole Holding Corp.	295 Clinton Avenue
Wisconsin Leasing Co.	1201 Ocean Parkway

ATTACHMENT "B"

TO ALL APPLICANTS:

In order to promote nondiscrimination in housing in accordance with the Fair Housing Act of 1968, please check one of the following as to your race or national origin, IF YOU CHOOSE TO DO SO.

_____ White

_____ Black

_____ Other

Failure to answer will not adversely affect your chance of getting an apartment.

(Please Print) NAME

ATTACHMENT "C"

TO TENANTS WHOSE OCCUPANCY COMMENCED AFTER
JANUARY 1, 1969 AND BEFORE AUGUST 1, 1970:

Dear Tenant:

We would like to offer you on a limited basis the following opportunity. If you desire to move to other of our buildings in Brooklyn, we will allow you to move without any penalty except for property damage to your present apartment. In addition, if you are accepted for another apartment, we will credit you towards the first month's rent of the new apartment to the extent of one month's rent of your present apartment. In other words, you will not have to pay the first month's rent on the new apartment, except to the extent that the new rent is higher than your present rent. However, if the new apartment rental is less than the rent you are now paying, you will receive the difference between the old monthly rent and the new rent for the first month, in cash, as well as your first month's rent free.

This offer applies only to those apartments appearing on lists available at Life Realty Corp., 1790 Flatbush Avenue, Brooklyn, New York, for occupancy not less than four (4) weeks from the date of application. This offer will expire when the first fifty (50) tenants have transferred under its terms, and in any event will expire one year from the date of this letter.

If you have any questions regarding this special offer, call Mr. Howard Jacobs at LL 9-9021, or Mrs. Rheba Gelman at Life Realty Corp., 1790 Flatbush Avenue, Brooklyn, New York, telephone CL 8-9090.

Very truly yours,

APARTMENT LEASING CORPORATION OF
AMERICA.

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA,

Plaintiff,

CIVIL ACTION NO. 70 C 954

-against-

LIFE REALTY, INC., et al.,

AMENDMENT TO CONSENT
ORDER OF JANUARY 28, 1971

Defendants.
-----X

Upon the report of the parties dated December 6, 1971, a copy of which is annexed hereto, the Consent Decree, entered on January 28, 1971, in this case is hereby amended so that paragraph V, c, 4 shall be:

4. If the information furnished by the applicant has been verified by defendants, and if he has been a satisfactory tenant at his prior residence, and if his net income per week, after deduction of the obligations listed in V, c, 1 (b) of this Order on a weekly basis, proves to be equal to at least 90% of the monthly rental of the apartment for which he has applied or his payment of rent shall be guaranteed by a legally enforceable contract by a duly authorized government agency, no further investigation shall be conducted, and the applicant shall be accepted or rejected on the basis of information already available.

EXHIBIT A, continued

No applicant shall be rejected for failure to have a checking or savings account at a commercial bank, if said failure was truthfully stated by the applicant in his application;

Dated: Brooklyn, New York
December 22, 1971.

Jack Weinstein
United States District Judge

The parties, by their attorneys, consent to the entry of this amendment to the Consent Order.

For the Plaintiff:

For the Defendants:

ROBERT A. MORSE
United States Attorney
Eastern District of New York

GOLDSTEIN, SHAMES & HYDE
Attorneys for Defendants

By: EDWARD BRODSKY
A Member of the Firm

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice

HENRY A. BRACHTL
Assistant United States Attorney
Eastern District of New York

RICHARD L. MASTER
Attorney, Civil Rights Division
Department of Justice

EXHIBIT B

Section 604-4.0 -- Administrative Code of the City
of New York provides:

(1) The Commissioner of Social Services shall have the power to and may, within the amount appropriated therefore, enter into a contract to make to the owner, landlord, lessee, managing agent of, or other person entitled to rent and receive rental payments for, housing accommodations whenever (a) a recipient of public assistance and care has neglected or failed to make rental payment and payment has not otherwise been made, or (b) a housing accommodation is vacant and the owner, landlord, lessee, managing agent or such other person agrees in such contract to hold such housing accommodation vacant and to accept as a new tenant a recipient of public assistance and care designated by the commissioner, and until such housing accommodation is occupied by and rental payments are made by such new tenant; provided, however, that no rental payment shall be made in accordance with this provision if such housing accommodation remains vacant for more than 60 days.

(2) The commissioner shall not be deemed to have assumed the duties of a tenant under lease because he has entered into a contract to make rental payments.

EXHIBIT C

NOTICE TO WELFARE RECIPIENTS

Before you fill out an application for an apartment in a Lefrak building, please consider the following:

The Lefrak organization treats all applicants for apartments equally, regardless of race, color, religion or national origin, and regardless of whether or not the applicant receives public assistance.

The Lefrak organization will take an application from a welfare recipient, just as from anyone else. The rental standards which it uses apply to all applications regardless of the source of an individual applicant's money. The rental standards include economic standards which are as follows:

NO APPLICANT WILL BE ACCEPTED AS A TENANT BY LEFRAK UNLESS HIS NET WEEKLY INCOME IS EQUAL TO OR GREATER THAN 90% OF THE MONTHLY RENTAL FOR THE APARTMENT FOR WHICH HE APPLIES,

OR

THE APPLICANT SECURES A PRIVATE GUARANTOR ACCEPTABLE TO LEFRAK

OR

THE APPLICANT'S PAYMENT OF RENT SHALL BE GUARANTEED BY A LEGALLY ENFORCEABLE CONTRACT BY A DULY AUTHORIZED GOVERNMENT AGENCY.

This means, for example, that if you apply for an apartment which rents for \$175 per month, your application cannot be seriously considered unless you receive at least \$155 per week in benefits. If an apartment rents for \$200 per month, you must receive at least \$180 per week in benefits in order to be seriously considered.



Department of Justice

EXHIBIT 3

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 15, 1973

CR

The Department of Justice filed a civil suit today charging an apartment management firm that controls more than 14,000 units in the New York City metropolitan area with discriminating against black persons in the operation of their buildings.

Attorney General Elliot L. Richardson said the housing discrimination suit was filed in U.S. District Court in Brooklyn, New York.

Named as defendants were Trump Management, Inc., its principal stockholder and board chairman, Fred C. Trump, and its president, Donald Trump.

The defendants own and manage some 39 apartment buildings, principally in Brooklyn and Queens.

The suit said the defendants have violated the Fair Housing Act of 1968 by refusing to rent and negotiate rentals with blacks, requiring different rental terms and conditions because of race, and misrepresenting that apartments are not available.

The suit asked for a court order enjoining the defendants from practising racial discrimination in the operation of their apartment buildings and requiring them to correct the effects of their alleged discriminatory conduct.

(OVER)

Assistant Attorney General J. Stanley Pottinger, head of the Civil Rights Division, said the suit is the Justice Department's second major rental discrimination case in the New York metropolitan area.

The first suit, involving about 10,000 rental units controlled by Life Realty Company, was resolved by a consent decree under which black and Puerto Rican occupancy at previously all-white buildings rose substantially, Mr. Pottinger said.

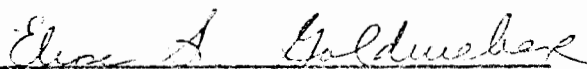
He also said the Trump case was referred to the Justice Department by the New York City Commission on Human Rights and was based in part on allegations made by Operation Open City, which is affiliated with the Urban League.

CERTIFICATE OF SERVICE

I, Elyse S. Goldweber, an attorney for the plaintiff, hereby certify that I have served a copy of the attached Notice of Motion of the United States to dismiss defendants' counterclaim, a copy of the attached Memorandum of the United States in Opposition to Defendants' Motion to Dismiss, Motion for More Definite Statement and in Support of Plaintiff's Motion to Dismiss the Counterclaim and a copy of the attached Memorandum of the United States in Response to the Affidavits of Donald Trump and Roy Cohn on the defendants by mailing a copy, postage prepaid, to their attorney at the following address:

Roy M. Cohn, Esq.
Saxe, Bacon, Bolan & Manley
39 East 68th Street
New York, New York 10021

This, the 4th day of January, 1974.


ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ JAN 16 1974 ★

-----x
: UNITED STATES OF AMERICA :
: :
: -against- :
: :
: FRED C. TRUMP, DONALD TRUMP, :
: and TRUMP MANAGEMENT, INC., :
: :
: Defendants. :
-----x

TIME A.M.
STIPULATION

Civil Action File
No. 73 C 1529

IT IS HEREBY STIPULATED AND AGREED, by and between the United States Attorney for the Eastern District of New York, attorney for the plaintiff, and Saxe, Bacon, Bolan & Manley, attorneys for the defendants, that defendants' motion to dismiss the complaint and for a more definite statement and Government's motion to dismiss defendants' counterclaim is hereby adjourned to January 25, 1974.

Dated: New York, New York
January 9, 1974

EDWARD JOHN BOYD V
~~ROBERT XXX MORSE~~
United States Attorney
Eastern District of New York
Attorney for Plaintiff

By Henry A. Brachtel
HENRY A. BRACHTL
Assistant U. S. Attorney

SAXE, BACON, BOLAN & MANLEY
Attorneys for Defendants

By Edward R. Neahy

SO ORDERED:
Dated: Brooklyn, New York

JANUARY 15, 1974
Edward R. Neahy
U.S.D.J.

made

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
: UNITED STATES OF AMERICA :
: :
: v. :
: FRED C. TRUMP, DONALD TRUMP :
: and TRUMP MANAGEMENT INC., :
: Defendants. :
-----x

73 C 1529

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.
★ JAN 22 1974 ★
TIME A.M.
P.M.

DEFENDANTS' REPLY MEMORANDUM
OF LAW IN SUPPORT OF DEFENDANTS'
MOTION TO DISMISS COUNTERCLAIM

SAXE, BACON, BOLAN & MANLEY
ATTORNEYS AND COUNSELLORS AT LAW Attorneys for Defendants
39 EAST 68TH STREET, NEW YORK, NEW YORK 10021

16

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
: UNITED STATES OF AMERICA :
: v. : 73 C 1529
: FRED C. TRUMP, DONALD TRUMP :
and TRUMP MANAGEMENT INC., :
: Defendants. :
-----X

DEFENDANTS REPLY MEMORANDUM
OF LAW IN SUPPORT OF DEFENDANTS
MOTION TO DISMISS COUNTERCLAIM

PRELIMINARY STATEMENT

The defendants have moved to dismiss the government's complaint for failure to state a cause of action or for a more definite statement, and have filed a compulsory counterclaim. All of these actions were taken in order to prevent a clear abuse of the Federal pleading rules and a trend by the government to exert pressure on defendants to settle with them by unfair publicity.

In the instant case, even before the defendants were served with the summons and complaint, the radio and T.V. newscasters reported the case and the newspapers were carrying banner headlines proclaiming that a "major landlord is accused of anti-black bias in the city" (N.Y. Times, October 16, 1973, p.1), and "U.S. suit against Trump charges bias in renting" (Daily News, October 16, 1973).

The government's memorandum in response to affidavits submitted by defendant and his attorneys attempts to mask the true purpose of these news releases, claiming that their intent was to benefit the public. The practical benefit to the public is extremely doubtful since there are no facts whatever stated in the complaint. It's only real purpose is obviously to pressure the defendants into a premature settlement.

The government's claim that defendants are guilty of some wrong by holding a news conference is utterly hypocritical. The defendants purpose was to alert the citizens of New York, as well as the tenants residing in Trump buildings, that the charges against them were unfounded and unproven and especially that the government had not won the case; but that they had merely filed a complaint.

The complaint in this case contains not one factual allegation and there is no case which permits this. The government has attempted to put the burden on the defendants to supply all of the facts that they lack. The situation is analagous to an indictment in a criminal action which contains but one line charging a defendant with arson and then requiring that defendant to hire investigators to disprove the charge.

The government throughout its memorandum of law cites to unreported cases. An analysis of each opinion shows that not one case supports their argument in opposition to defendants motions. The cases break down into two major groups.

The first are those in which the government supplied facts in their complaint which are totally absent from the complaint in the instant action. The second major group contains decisions in which there is no discussion by the court and so no conclusions may be reached as regards them. There are a few cases which do not fit into either of these groups and they are discussed separately. A case by case analysis as listed in the government's table of contents in the "unreported cases cited. . ." follows:

CASES IN WHICH THE GOVERNMENT'S COMPLAINT CONTAINS
FACTS TO SUBSTANTIATE ITS CHARGES

United States v. Raymond, Civil Action No. 73-119 CIV-T-H (M.D. Fla. Sept. 5, 1973).

United States v. Gilman, Civil Action No. 70-Civil 1967 (S.D. N.Y., July 28, 1970).

United States v. Miller, Civil Action No. 70-40 (D.Md. April 27, 1970).

United States v. Chirico, Civil Action No. 70-1851 (E.D. Pa. August 12, 1970)

United States v. Arco, Inc., Civil Action No. 70-29 (W.D. Tenn., March 20, 1970).

CASES IN WHICH THERE IS NO DISCUSSION IN THE DECISION

United States v. Watson, Civil Action No. 73-97 (M.D. La., May 15, 1973).

United States v. Pelzer Realty Company, Inc., Civil Action No. 3284-N (M.D. Ala. July 16, 1971).

United States v. Davis, Civil Action No. 6451-71 (S.D. Ala. May 18, 1971).

United States v. Goldberg, Civil Action No. 70-1223-CIV-CF (S.D. Fla. Oct. 19, 1970).

United States v. PMC Development Co., Inc., Civil Action No. 13578 (N.D. Ga., July 28, 1970).

United States v. Palm Beach Listing Bureau, Inc., Civil Action No. 70-379-CIV-C (S.D. Fla. May 5, 1970).

United States v. H. G. Smithy, Civil Action No. 21470 (D. Md. April 17, 1970).

United States v. Management Clearing, Inc., Civil Action No. 70-23-PHX (CAM) (D. Ariz. April 8, 1970).

United States v. Margurette Jones, Civil Action No. 71-H-279 (S.D. Tex. April 30, 1971).

United States v. Exclusive Mutual Exchange, Civil Action No. C-70-969 (N.D. Ohio Nov. 8, 1971).

United States v. Mrs. Dean Miles, et al., Civil Action No. C.A.-3-7243-E (N.D. Tex. Sept., 1973).

United States v. J.C. Long, Civil Action No. 71-1262 (D.S.C. April 3, 1972).

MISCELLANEOUS CASES CITED BY THE GOVERNMENT

United States v. City of Parma, Civil Action No. C-73-439 (N.D. Ohio Sept. 5, 1973).

The motions in this case were based on the defendant's argument that municipalities or political subdivisions are not persons against whom a suit may be brought and in addition, facts are apparently presented in the complaint.

United States v. Robbins, Civil Action No. 73-848 CIV-JE (S.D. Fla., June 22, 1973).

A copy of the decision was not included in the Orders given to the defendants.

United States v. A.B. Smythe, Inc., Civil Action No. C-69-885 (N.D. Ohio Nov. 24, 1970).

The motion to dismiss was based on exemptions and the unconstitutionality of the statute alleged to have been violated.

United States v. Jim Tucker Co., Civil Action No. 72-H-993 (S.D. Tex. Sept. 27, 1972).

This was a motion for summary judgment not for a motion to dismiss or for a more definite statement.

IN SUMMARY

In the decisions in which there is some discussion, it is seen that the government supplied facts in the complaint in addition to a mere recitation of the statutes as they have done in the instant case.

POINT I

GOVERNMENT'S COMPLAINT
SHOULD BE DISMISSED

The government's complaint should be dismissed. In opposition to this, the government has cited Conly v. Gibson, 355 U.S.41(1957), the decision, especially that portion quoted in the government's memorandum, could well have been cited by defendants in support of their motions.

In Conly, supra, the court said that they would not require a claimant to set out in detail the facts upon which he bases his claim, but that it would require "fair notice of what the plaintiff's claim is and the grounds upon which it rests," (47-48) [emphasis supplied].

The government has entirely failed to give defendants fair notice of the grounds although they attempt to get around the court's direction by claiming it is alright if what is lacking is "evidentiary details such as names, dates, places, etc." The government must conclude that every fact is evidentiary detail since they have totally failed to state any facts whatsoever.

In a recent case, Coopersmith v. Supreme Court State of Colorado, (10 Cir. 1972) 465 F.2d 993, the court said citing to Conly,

"allegations of conclusions or of opinions are not sufficient when no facts are alleged by way of the statement of the claim." 994(emphasis supplied).

In Burak v. Sprague (E.D. Pa. 1971) 335 F. Supp. 347, the complaint was dismissed, the court stating:

The complaint fails to state a claim on which relief can be granted; it fails to set forth facts; it sets forth only a series of conclusionary charges devoid of factual content lacking legal significance. The complaint is dismissed."

A complaint in a case like this must set forth some facts, and to merely state vague and conclusionary allegations are not enough. Nishiyama v. North America Rockwell (C.D. Calif. 1970), 49 FRD 288. Shemtob v. Shearson Hammill & Co. (C.A.2d, 1971) 448 F.2d 442, Israel v. City Rent & Rehabilitation Administration of City of New York (S.D.N.Y.1965) 28 F.Supp. 908.

Even in civil rights cases where a claim is nothing more than plaintiff's conclusions, unsupported by any factual statement, a motion to dismiss will be granted. Scott v. Larson, (E.D. Wis.1973) 58 FRD 131), Jones v. Bales(N.D.Ga. 1972) 58 FRD 453, aff'd (C.A.5th,1973)480 F.2d 805.

In Sisters of Providence of Saint Mary of the Woods v. City of Evanston, 335 F.Supp.396, the court noted that it is important to balance the infringed right against police power, the determination of which is based on facts presented. The government has not presented any facts to support these allegations and so the very real possibility

of abuse has become a reality. The complaint lacks facts to substantiate it, and as if in an attempt gave it substance, newspaper reports are released, this is the exact abuse the court in Sisters of Providence sought to provide protection against.

POINT II

DEFENDANTS' MOTION FOR A MORE
DEFINITE STATEMENT SHOULD
BE GRANTED

The defendants are entitled to sufficient information around which they can frame a responsive pleading. The government has failed to supply this, and thus, if defendants' motion dismissing the complaint is not granted, then a more definite statement is required. Jenn Air Products Co., v. Penn Ventilator, Inc., E.D.Pa.1968, 283 F.Supp.591.

The cases cited by the government in opposition to this motion all involve situations where the courts found sufficient facts not where they found no facts.

POINT III

DEFENDANTS' COUNTERCLAIM
SHOULD NOT BE DISMISSED

The government has severely damaged the defendant by releasing to the press statements which it knew to be untrue before they served the defendant. Rule 13(a) of the Federal Rules of Civil Procedure requires a pleading to state as a counterclaim any claim which the pleader has against the opposing party. Defendants counterclaim. The government,

by the institution of this action, has subjected itself to defendants' compulsory counterclaims, as it admits on page 18 of the government's memorandum.

CONCLUSION

The government complaint should be dismissed because of their failure to state any facts in their complaint and a more definite statement should be required. The unreported cases cited by the government completely fail to support their argument. It is mere evidentiary detail that the defendants are requesting.

Respectfully submitted,

SAXE, BACON, BOLAN & MANLEY
Attorneys for Defendants
39 East 68 Street
New York, New York 10021

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
FRED C. TRUMP, DONALD)
TRUMP and TRUMP MANAGE-)
MENT, INC.,)
)
Defendants.)
_____)

JAN 24 1974
CIVIL ACTION NO. 73 C 1529

TIME AM.....
P.M.....

NOTICE OF MOTION TO
COMPEL DEFENDANTS TO
ANSWER PLAINTIFF'S
INTERROGATORIES

S I R S:

PLEASE TAKE NOTICE that plaintiff, United States of America, will move this Court, before the Honorable Edward R. Neaher, District Judge at the United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York in Courtroom 9, on the 25th day of January 1974 at 10:00 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard, for an Order compelling defendants to answer plaintiff's interrogatories propounded and served on or about November 7, 1973 and not yet answered. This motion is made pursuant to Rule 37 of the Fed.R.Civ.P., and the grounds therefor are set forth with particularity in plaintiff's supporting memorandum. Plaintiff further prays for such other and further relief that this Court deems just and proper.

17

Dated: January 21, 1974
Brooklyn, New York

Yours, etc.

To: Roy M. Cohn, Esq.
Saxe, Bacon, Bolan
and Manley
39 East 68th Street
New York, New York 10021

Frank E. Schwelb
FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Henry A. Brachtel
HENRY A. BRACHTL
Assistant United States
Attorney
Department of Justice
Brooklyn, New York 11201


Elyse S. Goldweber
ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

CERTIFICATE OF SERVICE

I, Elyse S. Goldweber, an attorney for the plaintiff, hereby certify that I have served a copy of the foregoing Notice of Motion to Compel Defendants to Answer Plaintiff's Interrogatories on the defendants by mailing a copy, postage prepaid, to their attorney at the following address:

Roy M. Cohn, Esq.
Saxe, Bacon, Bolan & Manley
39 East 68th Street
New York, New York 10021

This, the 21st day of January, 1974.


ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

AFFIDAVIT IN SUPPORT OF PLAINTIFF'S MOTION
TO COMPEL DEFENDANTS TO ANSWER
PLAINTIFF'S INTERROGATORIES

CITY OF WASHINGTON)
) SS
DISTRICT OF COLUMBIA)

Elyse S. Goldweber, being duly sworn, deposes and
says:

1. I am an attorney in the Housing Section, Civil
Rights Division, United States Department of Justice, and
one of the counsel for plaintiff in United States v. Fred
C. Trump, et al., Civil Action No. 73 C 1529.

2. On November 7, 1973, I caused to be mailed to
counsel for defendants a set of interrogatories presently on
file with the Court. Defendants have received copies of these
interrogatories, as evidenced by the fact that they have
attached copies thereof to their motions and counterclaim now
pending.

3. On December 21, 1973, having received no response,
I telephoned Mr. Michael Rosen, an associate of Saxe, Bacon,
Bolan and Manley concerning defendants' failure to respond
to plaintiff's interrogatories. Mr. Rosen indicated to me
that the attorneys from his firm, Roy Cohn, Esq. and Jeffrey
Shulman, Esq., handling this lawsuit were out of town and
would return on January 2, 1974.

4. On January 4, 1974, Mr. Shulman returned the last
of several telephone calls which I had placed to him in an
effort to discuss the unanswered interrogatories pursuant to
Local Rule 9(f). Mr. Shulman informed me that the defendants
had no intention of filing any answers or objections

to the interrogatories until their motions to dismiss, or
in the alternative, for a more definite statement, were
ruled on.

Elyse S. Goldweber
ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Subscribed and sworn to

before me this 18th day of January, 1974.

J. Ruth Richmond
NOTARY PUBLIC

My Commission Expires: Feb. 14, 1977.

CERTIFICATE OF SERVICE

I, Elyse S. Goldweber, an attorney for the plaintiff, hereby certify that I have served a copy of the foregoing Affidavit in Support of Plaintiff's Motion To Compel Defendants To Answer Plaintiff's Interrogatories on the defendants by mailing a copy, postage prepaid, to their attorney at the following address:

Roy M. Cohn, Esq.
Saxe, Bacon, Bolan & Manley
39 East 68th Street
New York, New York 10021

This, the 21st day of January, 1974.

Elyse S. Goldweber

ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530

Meader

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x

UNITED STATES OF AMERICA,

Plaintiff,

-against-

FRED C. TRUMP, DONALD TRUMP
and TRUMP MANAGEMENT, INC.,

Defendants.

-----x

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT

JAN 24 1974

T
P.....
Civil Action

No. 73 C 1529

MEMORANDUM IN SUPPORT OF PLAINTIFF'S
MOTION TO COMPEL DEFENDANTS TO ANSWER
PLAINTIFF'S INTERROGATORIES

Of Counsel:

HENRY A. BRACHTL
Assistant U. S. Attorney

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
U.S. Department of Justice
Washington, D. C. 20530

ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
U. S. Department of Justice
Washington, D. C. 20530

EDWARD JOHN BOYD V
United States Attorney
Eastern District of New York
Attorney for Plaintiff
225 Cadman Plaza East
Brooklyn, New York 11201

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

CIVIL ACTION NO. 73 C 1529

UNITED STATES OF AMERICA,
Plaintiff,

v.

FRED C. TRUMP, DONALD TRUMP
and TRUMP MANAGEMENT INC.,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION TO COMPEL
DEFENDANTS TO ANSWER PLAINTIFF'S INTERROGATORIES

HENRY A. BRACHTL
Assistant United States
Attorney
U.S. Department of
Justice
Brooklyn, New York
11201

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
U.S. Department of Justice
Washington, D. C. 20530

ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
U.S. Department of Justice
Washington, D. C. 20530

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

CIVIL ACTION NO. 73 C 1529

UNITED STATES OF AMERICA,

Plaintiff,

v.

FRED C. TRUMP, DONALD TRUMP
and TRUMP MANAGEMENT INC.,

Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION TO COMPEL
DEFENDANTS TO ANSWER PLAINTIFF'S INTERROGATORIES

INTRODUCTION

On October 15, 1973, the United States instituted this action, pursuant to Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601 et seq. (Fair Housing Act) against the defendants, who operate apartment complexes in the New York City area. The Complaint alleges that the defendants have engaged in unlawful racially discriminatory

housing practices and that such conduct constitutes a pattern or practice of resistance to the full enjoyment of the rights secured by the Fair Housing Act and a denial to a group of persons of rights secured by the Act, which denial raises an issue of general public importance. See 42 U.S.C. 3613.

On December 12, 1973, defendants filed Motions to dismiss or, in the alternative, for a more definite statement, alleging that the Complaint fails to state a claim upon which relief can be granted and is too vague to enable them to respond. Defendants have also filed what purports to be a counterclaim against the United States seeking damages in the amount of 100 million dollars. On January 7, 1974, plaintiff filed a memorandum in opposition to defendants' motions and moved to dismiss the purported counterclaim. These motions are presently before the court.

On November 7, 1973, plaintiff served on defendants, by mail, a set of interrogatories. On January 4, 1974, no answers or objections having been received in the interim, Elyse Goldweber, an attorney for the United States, telephoned Jeffrey Shulman, an attorney for the defendants pursuant to Local Rule 9(f), to discuss defendants' failure to respond to plaintiff's interrogatories. Mr. Shulman informed Ms. Goldweber that the defendants had no intention of filing any

answers or objections to the interrogatories until a ruling on their pending motions. As of January 21, 1974, plaintiff has not received any response to its interrogatories, and no motion for a protective order has been filed. Accordingly, plaintiff has moved this Court for an order compelling defendants to answer the interrogatories promptly.

DISCUSSION

Plaintiff's 16 interrogatories are designed to determine the breadth and scope of defendants' allegedly unlawful discriminatory practices, to ascertain the identity and location of persons having knowledge of pertinent facts and to assist plaintiff in determining the scope and specifics of any injunctive and affirmative relief which may ultimately be awarded. The interrogatories also seek to elicit any information on which defendants may rely in their defense of the action. Since the defendants have not filed objections to these interrogatories, we do not here defend each interrogatory against an attack which the defendants have not made. However, if defendants' response to these interrogatories includes objections as well as answers, and if the Court finds such objections timely, plaintiff is prepared to defend each interrogatory which it has propounded.

We observe that defendants have not moved this court for a

protective order, under Rule 26(c) of the Fed.R.Civ.P., to excuse them from responding to plaintiff's interrogatories within the time prescribed by Rule 33(a) F.R.Civ.P. In this connection, Rule 37(c) provides that failure to respond

. . . may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by Rule 26(c).

Defendants have identified no provision of the Federal Rules, nor can they, which would automatically stay the filing of a response to interrogatories, until the disposition of pending motions. Instead, they have blithely disregarded the Rules.

Rule 37(d) authorizes the Court to impose sanctions when no protective order has been sought. The Rule was amended in 1970 to remove the requirement that the moving party prove "willfulness" in order to obtain sanctions. While plaintiff does not presently seek sanctions but only a response to its interrogatories, we believe that the availability under the Rules of a sterner remedy suggests that further unilateral disregard of the Rules by defendants should be remedied promptly and defendants should be required to address themselves to the factual issues in this case. As stated in prior memoranda, we are prepared to

disclose all discoverable evidence in response to an appropriate interrogatory, and we ask that defendants be required to do the same.

For the foregoing reasons, plaintiff requests that the Court grant plaintiff's motion to compel answers to plaintiff's interrogatories.

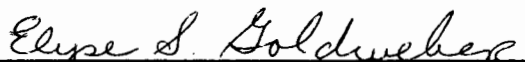


HENRY A. BRACHTL
Assistant United States
Attorney
Department of Justice
Brooklyn, New York 11201

Respectfully submitted,



FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530



ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

CERTIFICATE OF SERVICE

I, Elyse S. Goldweber, an attorney for the plaintiff, hereby certify that I have served a copy of the foregoing Memorandum in Support of Plaintiff's Motion on the defendants by mailing a copy, postage prepaid, to their attorney at the following address:

Roy M. Cohn, Esq.
Saxe, Bacon, Bolan & Manley
39 East 68th Street
New York, New York 10021

This, the 21st day of January, 1974.

Elyse S. Goldweber

ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN CLERK'S OFFICE
DISTRICT COURT E.D. N.Y.

★x FEB 6, 1974 ★

UNITED STATES OF AMERICA,

Plaintiff,

O R D E R

-against-

Civil Action

FRED C. TRUMP, DONALD TRUMP
AND TRUMP MANAGEMENT INC.,

No. 73 C 1529

Defendants.

-----x

This cause came on to be heard on January 25, 1974 on (1) the motion of defendants to dismiss the complaint for failure to state a claim or for a more definite statement, (2) plaintiff's motion to dismiss defendants' counterclaim for want of jurisdiction and (3) plaintiff's motion to compel answers to interrogatories, and it appearing (1) that the complaint states a claim upon which relief can be granted and is not so vague or ambiguous that defendants cannot reasonably be required to frame a responsive pleading, (2) that this Court lacks jurisdiction of the subject matter of defendants' alleged counterclaim and (3) that justice will be served by requiring defendants' answers to interrogatories on the terms and conditions set forth below, it is

ORDERED, that defendants' motion for an order dismissing the complaint or for a more definite statement is denied; and it is further

ORDERED, that defendants' counterclaim is dismissed; and it is further

ORDERED, that defendants answer the complaint on or before February 8, 1974; and it is further

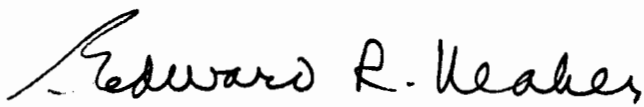
ORDERED, that should interrogatories be served by defendants upon plaintiff on or before February 8, 1974, plaintiff answer such interrogatories on or before February 28, 1974; and it is further

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ORDERED, that defendants answer plaintiff's
interrogatories of November 7, 1973 on or before April 1,
1974.

Dated: Brooklyn, New York
January , 1974

February 5


United States District Judge

Handwritten initials and marks at the top of the page.

AFFIDAVIT OF MAILING

STATE OF NEW YORK
COUNTY OF KINGS
EASTERN DISTRICT OF NEW YORK, ss:

_____, being duly sworn, says that on the _____ day of _____, I deposited in Mail Chute Drop for mailing in the U.S. Courthouse, Cadman Plaza East, Borough of Brooklyn, County of Kings, City and State of New York, a _____ of which the annexed is a true copy, contained in a securely enclosed postpaid wrapper directed to the person hereinafter named, at the place and address stated below:

Sworn to before me this _____ day of _____

AFFIDAVIT OF PERSONAL SERVICES

STATE OF NEW YORK
COUNTY OF KINGS
EASTERN DISTRICT OF NEW YORK, ss:

JOHN HUNTER _____, being duly sworn, says that he is employed in the office of the United States Attorney for the Eastern District of New York. That on the 30th day of January, 1974, he served a true copy of the annexed of Settlement and signature Order with Notice on the office of Saxe, Bacon, Bolan & Manley, Esqs. attorney for defendants _____ herein, located at 39 East 68th Street, _____, Borough of Manhattan, City of New York, by leaving a true copy of same with his clerk or other person in charge of said office.

John Hunter

Sworn to before me this
31st day of January
Stella B. Magier

STELLA B. MAGIER
Notary Public, State of New York
No. 24-4501884
Qualified in Kings County
Commission Expires March 30, 1975

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FEB 8 1974

----- x
UNITED STATES OF AMERICA, :
 :
Plaintiff, :
 :
-against- :
 :
FRED C. TRUMP, DONALD TRUMP :
and TRUMP MANAGEMENT, INC., :
 :
Defendants. :
----- x

73 Civ. 1529
P.M.
ANSWER

Defendants, for and as their answer to the complaint
for an injunction, state:

1. Deny any knowledge or information sufficient to form
a belief as to the allegations contained in paragraphs "1", "2" and
"4".
2. Deny each and every allegation contained in paragraphs
"5" and "6" of the plaintiff's complaint.

WHEREFORE, defendants demand that plaintiff's complaint
be dismissed, together with costs and disbursements, and such
other and further relief as this Court may deem just.

SAXE, BACON, BOLAN & MANLEY
By Ray M. Cohn
Ray M. Cohn
By Jeffrey A. Shuman
Jeffrey A. Shuman

Attorneys for Defendants
39 East 68th Street
New York, New York 10021

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT

★ FEB 8 1974
73 Civ. 1529
TIME AM.....
P.M.....

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UNITED STATES OF AMERICA, :
 :
 Plaintiff, :
 :
 -against- :
 :
 FRED C. TRUMP, DONALD TRUMP and :
 TRUMP MANAGEMENT, INC., :
 :
 Defendants. :
 :
----- x

DEFENDANTS' FIRST DEMAND FOR INTERROGATORIES
TO PLAINTIFF

TO THE PLAINTIFF, UNITED STATES OF AMERICA:

Defendants request that plaintiff answer each interrogatory separately and fully in writing and under oath, in accordance with Rule 33 of the Federal Rules of Civil Procedure. If the information requested by any interrogatory is contained in documents, papers or records in the custody of the plaintiffs, you may so indicate and answer that interrogatory by attaching copies of such documents or papers to your answers and by indicating the interrogatory to which those documents or papers are deemed responsive. In the alternative, you may answer that interrogatory by identifying those documents, papers or records in which the answer is contained and specifying the location of the documents, papers or records and making the same available to defendant to inspect, copy or photograph.

These interrogatories call for all information available to the plaintiff, its employees or agents, with respect to the subject matter into which they inquire. If some of the

information is known or available to a particular employee or agent and other information is available to another employee or agent, please include in your answers all the information known to each employee or agent and please specify which employee or agent provided information with respect to each answer:

1. Please provide all information which supports your allegations stated in paragraph "FIFTH" in your complaint for an injunction.

(a) Include in your answer to this interrogatory dates and locations of alleged violations and those allegedly responsible for the violation and in what manner you learned of the violation, giving particularly the name of the complainant or informant and the date of the complaint to you, what action or investigation was taken to verify the complaint, and the results of said action or investigation, and in what way it is alleged that each of the defendants had knowledge of and/or was involved in such alleged violation.

2. Please give all information in your possession which supports your allegations contained in paragraph "SIXTH" of the complaint for an injunction.

(a) Include in your answer to this interrogatory dates and locations of alleged violations and those allegedly responsible for the violation, and in what manner you learned of the violation, giving particularly the name of the complainant or informant and the date of the complaint to you, what action or investigation was taken to verify the complaint, and the results of said action or investigation, and in what way it is alleged that each of the defendants had knowledge of and/or was involved in such alleged violation.

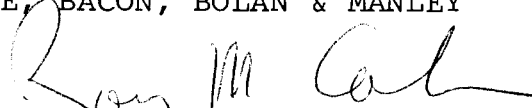
PLEASE TAKE NOTICE that a copy of such answer must be served upon the undersigned within thirty days after service

of the foregoing interrogatories.

Respectfully submitted,

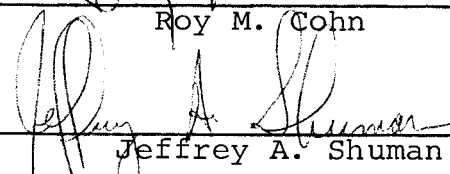
SAXE, BACON, BOLAN & MANLEY

By



Roy M. Cohn

By



Jeffrey A. Shuman

Attorneys for Defendants
Office and P. O. Address
39 East 68th Street
New York, New York 10021

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
J. S. DISTRICT COURT E.D. N.Y.

★ FEB 28 1974 ★

TIME A.M.
P.M.

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:

UNITED STATES OF AMERICA :

-against- :

73 C 1529

F. C. TRUMP, D. TRUMP and
TRUMP MANAGEMENT, INC., :

Defendants :

-----x

United States Courthouse
Brooklyn, New York

January 25, 1974
10:00 o'clock a.m.

B e f o r e :

HONORABLE EDWARD R. NEAHER, U.S.D.J.

BURTON H. SULZER

OFFICIAL COURT REPORTER

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APPEARANCES:

**EDWARD J. BOYD V, ESQ.,
Acting United States Attorney for the
Eastern District of New York**

**BY: HENRY A. BRACHTL, ESQ.,
Assistant United States Attorney.**

**FRANK E. SCHWELD, ESQ.,
MS. ELYSE GOLDWEBER
Attorneys for Housing Section, Civil Rights
Division.**

**ROY COHN, ESQ.,
Attorney for Trump Management Inc.
F. C. Trump and D. Trump.
.**

1
2 THE CLERK: United States against F.C. Trump,
3 D. Trump and Management, Inc.

4 MR. BRACHTL: Your Honor, the first matter of
5 several to which we'll be addressed this morning will
6 be Mr. Cohen's motion, but before we get to that
7 I would like to first introduce to the Court Frank E.
8 Schweld, who is the Chief of the Housing Section of
9 the Civil Rights Division of the Department of Justice,
10 and Attorney Elyse Goldweber, also of the Housing
11 Section of the Civil Rights Division.

12 With respect to the matters which are on the
13 calendar this morning, there are three concerning this
14 case: first, there is the defendant's motion to dismiss
15 the complaint, or in the alternative, for a more
16 definite statement.

17 There is, secondly, the plaintiff's motion to
18 compel an answer to interrogatories; and, thirdly,
19 there is the plaintiff's motion to dismiss the defend-
20 ant's counterclaim.

21 With respect to counsel for the government on
22 those several matters, Ms. Goldweber will address the
23 arguments with respect to the motion to dismiss, or
24 in the alternative for a more definite statement, and
25 as we think a necessary corollary to that argument,

1 our argument in support of our motion to compel
2 answers to interrogatories.

3 At the conclusion of that argument I will have
4 a few remarks to make in support of our application
5 for the dismissal of the defendant's counterclaim.

6 MR. COHEN: Your Honor, I am afraid that I will
7 have to be affirmative and negative with respect to
8 this battery of distinguished legal talent from the
9 government all by myself on all motions, but I will do
10 my very best.

11 THE COURT: Well, Mr. Cohen, I recognize you as
12 a big gun, too.

13 MR. COHEN: You are very kind, your Honor. I wish
14 it was so.

15 Judge Neaher, I guess the best thing to do here
16 is start at the beginning. Back in the fall one day
17 the Trumps and the Trump organization -- well, I ought
18 to start by telling you the Trump Management Company,
19 which is a defendant, and Frederick Trump and his son,
20 Donald Trump, who are associated with Trump Manage-
21 ment, is one of the largest management and most success-
22 ful and most respected management companies in this
23 area, and I suppose in the country.

24 One fine day back in the late fall, without
25 having been served with any legal papers or any such

1 formality, all of a sudden the Trumps turn on the
2 radio and heard themselves being blasted all over,
3 pursuant to a press release issued out of the Depart-
4 ment of Justice in Washington -- not up here -- as
5 people who are discriminating, adopting discriminatory
6 policies.

7 The next day, the bulldog editions of the Daily
8 News and the front page of the New York Times emblazoned
9 the facts for all to see and all to read, and I guess
10 some time thereafter the court papers finally turned up
11 someplace and we found out what this was all about.

12 I noticed in some papers submitted to your Honor
13 it is said that somebody made or was supposed to make
14 a phone call to somebody in the Trump organization
15 simultaneously with the release of this press release.
16 But what I am saying now, really, is not actionable by
17 us at the moment, except with reference to our counter-
18 claim which I will come to in a few minutes. I tell it
19 to your Honor as the background as to how this whole
20 thing started.

21 I know that the Eastern District and the
22 Southern District and the Second Circuit have had
23 things to say about this idea of these press releases
24 being handed out in the first instance, but the fact
25 is, and the government concedes that they did hand out

1 one and they have been candid enough to attach that
2 press release to the papers which are submitted to your
3 Honor.

4 The damage done to the Trumps and the defendants
5 here was, I suppose, something that is never going to,
6 no matter what the outcome of this case, I suppose the
7 damage is never going to be completely undone because
8 you are never going to catch up with these initial
9 headlines.

10 When these motions were filed, we had a somewhat
11 reserved press conference in which we tried to contact
12 the same people, the same representatives of the media
13 to whom the government had distributed its press
14 release originally, and we acquainted them with the
15 papers we were filing in Court and Mr. Trump acquainted
16 them with his position, which is a denial which he felt
17 he wanted to have before the thousands of people who
18 do business with him commercially and his tenants and
19 banks and everybody else, have before them his position,
20 which is that the charges made and emblazoned over the
21 front pages were without foundation. In any event,
22 here we are where we should be, in court.

23 Now, Judge Neaher, the complaint in this case
24 is one of the most unusual things I have ever seen. I
25 must admit that in recent years I suppose my practice

1 has gone from between office matters and trial of crim-
2 inal cases, and I frankly have not been in a civil
3 rights case before and I must say I am amazed and con-
4 founded by some of the principles of law which the
5 government urges apply to this type of case.

6 First of all as to the complaint. You have before
7 you a motion to dismiss this complaint on the grounds
8 it totally fails to set forth facts sufficient to con-
9 stitute a cause of action. It is a bare bones complaint.
10 And we ask in the alternative, if your Honor disagrees,
11 we of course ask you to dismiss the complaint. If your
12 Honor should disagree, we ask that your Honor, in the
13 alternative, dismiss it with leave to the government to
14 file a complaint with some factual allegations in it
15 so that the defendants are on notice with some reason-
16 able detail as to exactly what proscribed conduct they
17 are specifically charged with having committed.

18 This complaint which gave rise to all these
19 front pages is a very short document. The only facts
20 stated in the complaint are the names of the defendant,
21 Trump Management and Fred and Donald Trump, and from
22 therein, there is a verbatim recitation of the statutory
23 language of Title 42, 3602(b) and 3601, which says
24 that it is a violation of the Fair Housing Act, and
25 enjoined violation to discriminate because of race,

1 color or creed, and that if discriminatory policies
2 are pursued by a landlord, this is proscribed by the
3 Fair Housing Act and the government may apply for
4 injunctive relief of the Court.

5 There is not one specific allegation in this
6 very short complaint. They don't even give a year.
7 They don't even say between 1968 and 1972 at such-and-
8 such projects operated by the Trump Organization,
9 blacks have been denied such-and-such, or on January 17,
10 1973, John Jones, being otherwise fully qualified and
11 able to pay the rent, applied and was denied an
12 apartment because of his race, whereas the same apartment
13 was given to a subsequent applicant, or something like
14 that; not one line in this whole complaint.

15 When Mr. Trump brought it in to me and I read
16 it, I said, "I don't know what to tell you. It has your
17 name and it sets forth verbatim statutory language
18 saying you should not discriminate. And there isn't
19 one specific act." I said, "It's akin to a defendant
20 being indicted with the statutory section being charged
21 and not one specific in the indictment."

22 Now, I realize a defendant in a criminal case
23 could then come forward and ask the government for a
24 bill of particulars, which is a relief the Court would
25 grant if a situation existed as I described. In this
case, something crazy happened, Judge Neaher. After this

1 complaint was filed and we made the motion to dismiss--
2 and I don't remember whether it was before we made the
3 motion or after we made the motion, and it really
4 isn't too material -- but, in any event, after this
5 complaint is filed and we set up a rumpus about it
6 and said, "We don't know what this is all about. We
7 didn't discriminate and we don't know how to tell you
8 we didn't because you haven't given us one thing we
9 can sink our teeth into; you haven't given us one
10 location, one name, one fact which we can answer here."

11 They said, "Don't worry; that's going to be
12 taken care of." And then I find out how it will be
13 taken care of, they serve us with 16 pages of interrog-
14 atories and tell us to go out and make an investigation
15 to find out whether or not we discriminated, to furnish
16 them with the answers and when we furnish them with
17 the answers, then they will be in a position to
18 amplify the complaint and tell us whether or not in
19 fact the charge which they made on every front page
20 in this area might have some substance to it or not.

21 Now, the third motion before your Honor this
22 morning is to compel us to answer these interrogatories.
23 I'm going to say just a word about them because it
24 would seem to me, and I don't think there will be much
25 disagreement on that, that the first thing we do is

1 impose upon your Honor for a ruling, after your Honor
2 has had a chance to go into this mess we are throwing
3 at you, on the sufficiency of the complaint, and if
4 your Honor rules it sufficient and does not dismiss it,
5 or rules that they should furnish some facts and then
6 give them time to furnish facts, once that is cleared
7 up; then we get down, I suppose, to the stage of inter-
8 rogatories and further particulars and all of that.

9 Now, this 16 pages of interrogatories they
10 served on us to find out whether there is any basis
11 for their action has to be the wildest thing I ever
12 read in my life. Maybe it is my ignorance of this type
13 of proceeding. On page 15, they say, "Please state
14 the name, address, race and occupation of each person
15 interviewed by you or on your behalf in relation to
16 this case. Please state separately the name, address,
17 race and occupation of any person not interviewed by
18 you or on your behalf, but whom you intend to interview
19 in the future about this case."

20 Well, I have been around a little while and I
21 can just picture myself calling up some witness and
22 saying, "I'd like to talk to you about this." By the
23 way, are you black or white or Catholic, Protestant
24 or Jew?" And then making a note of it and then turning
25 that over to the government or something like that.

1 That's what this whole darn thing reads like.

2 They say, for example, "Please state the name
3 and address of each black and Puerto Rican individual
4 who has applied for a position of any kind with Trump
5 Management in the past three years." Well, this doesn't
6 charge employment discrimination on the part of Trump
7 in hiring its management personnel -- it is a fair
8 housing proceeding. When I called Mr. Trump and read it
9 to him, he said, "How can I do that? I couldn't tell you
10 if the Court ordered me to answer it, because I would
11 have thought it highly improper when we employ some-
12 body to say, 'what is your race?'"

13 He said, "I don't know what their race or
14 religion is. All I know is, if they have good refer-
15 ences and they meet the qualifications, they get the
16 job, and whoever our personnel people are, do that. We
17 don't ask race." He said, "And I haven't even seen most
18 of these people and I wouldn't know if they are black
19 or Puerto Rican or white or Catholic, Protestant or
20 Jew," and he said, "I would think the most improper thing
21 in the world for me to do would be to have questions
22 concerning a person's race or religion or something
23 like that on employment applications when we give out
24 jobs in our organization."

25 Now, when it comes to the units, oh, they want

1 to know things like, decreases and increases in rental
2 rates and since January 1, 1968. You are talking about
3 14,000 units here. When you get down to the question
4 of the actual 14,000 units, they ask us to tell them
5 the number of persons per month by race making inquiry
6 concerning the availability of an apartment between
7 January 1, 1969 and present. We deny any discriminatory
8 practices, and obviously the Trumps have never permiss-
9 ed, would never dream of permitting an application
10 which is given out for a broker renting an apartment
11 to say to a person, "What's your race or religion?" We
12 would have no way in the world of knowing.

13 The next thing they ask us to do is to canvass
14 our 14,000 units and findout -- there are definitely
15 a number of blacks who live in there, that we know
16 visibly. I have taken a ride and looked at some of
17 them and blacks walk in and out and I assume they are
18 not there for any improper purpose and they live in
19 the place. But they want us to go, apparently, and
20 canvass all 14,000 of these units and find out how
21 many blacks live there and how many non-blacks live
22 there, and I suppose how many Puerto Ricans live there
23 or non-Puerto Ricans.

24 The whole tenor of the thing seems to be
25 offensive. If they have some proof that the Trumps
have been discriminating and have applied discriminatory

1 policies -- and I know there are a considerable number of
2 blacks, we represent that to the Court, who live in
3 these units -- but if they have some specific proof
4 to support a complaint that discriminatory practices
5 have been followed, all we ask them to do is not to
6 tell us to go out and make an investigation and in so
7 doing, note the race of every witness we interview, or
8 every person I talk to about it, but ask them to put
9 in a proper complaint, which advises us at least of
10 the minimum facts, not statutory language, which they
11 claim shows some discriminatory action by us so that
12 we can meet that charge and say in that building in
13 those units or on this application or in this situa-
14 tion it is not a fact we discriminated, and here's
15 what happened. That's all we ask.

16 I would respectfully submit to your Honor the
17 concept that a barebones complaint, without one fact
18 in it, followed on its heels by 16 pages of interroga-
19 tories telling us to go out and find and conduct our
20 own investigation, which would be long, expensive and,
21 in many instances, impossible, is not the way in this
22 country you do something like this.

23 So we therefore ask your Honor to hold the inter-
24 rogatories in abeyance, and if we ever get to this
25 point, we are going to ask leave to make a motion to

1 strike some of these, and ask your Honor to dismiss
2 this complaint -- and if your Honor feels that total
3 dismissal is not warranted, at least ask them to re-
4 plead and give us some facts.

5 The government cites some cases which they say
6 could actually justify a complaint like this. I don't
7 think one of them that they cite is of significance
8 insofar as this complaint is concerned, a reported case.
9 They have been kind enough to supply us with a pile,
10 knowing, I'm sure, the expertise of their Civil Rights
11 Division, they have them at their fingertips and they
12 were nice enough to mimeograph off for us a list with a
13 table of contents of the unreported cases. I have
14 gone through these and I don't think -- don't find
15 one of them that supports a complaint like this. I
16 am not going to cite the general lack.

17 There are, of course, somethings which say in
18 a complaint you don't have to set forth every eviden-
19 tiary detail. Your Honor has heard to the point of
20 boredom that argument every time there is a motion for
21 a bill of particulars before you in a criminal case.
22 The defendant says, "I don't know anything." The
23 government says, "They want all our evidence." And
24 your Honor strikes a happy balance and says, "Well,
25 tell them enough so they know of the specifics here

1 they are supposed to meet. But you don't have to tell
2 them all your evidence and all of that." Okay. They
3 cite this Connelly case with which I have some famil-
4 iarity, which cuts both ways, of course. It says you
5 don't have to tell everything but you have to tell
6 something; you have to tell them what they are charged
7 with and what they feel someone is supposed to have
8 done, and I think that case cuts most heavily in our
9 favor.

10 Then they go to these unreported cases. Just to
11 talk about a few of them and not to be discriminatory
12 myself here, I will just take them in the order in
13 which they set them forth in their memorandum. They
14 start with a case called the Raymond case. It is
15 obvious from that case, your Honor, there was a wealth
16 of detail. They don't set forth the actual complaint
17 so I just have to piece together what the complaint
18 might have been and the preliminary pleadings from the
19 papers they have here.

20 In the Raymond case, your Honor, first of all,
21 this was a small situation. They would say, I think,
22 less than 40 apartments involved, not 14,000, such as
23 we have in this case. What they say there is the land-
24 lord publicly announced and admitted, "I will never
25 rent a place to a black. Forget about it." And,

1 furthermore, when a white family entertained some black
2 friends of theirs, they promptly told the white family
3 their lease was terminated and to get out of the
4 place. I can understand a charge like that in its
5 impropriety and fact that that should have been met.

6 They go then to this Palmer case, which was
7 against the City or Township of Palmer, I think, in
8 Ohio, and there there was a specific charge that the
9 Township refused to go forward with a housing project,
10 a specifically enumerated housing project to be done
11 with Federal funds, on the grounds that this might
12 bring about an influx of blacks into a community or
13 area. The issue there was whether this housing project
14 should be blocked or not then and the defendant town-
15 ship was specifically so charged and had the opportuni-
16 ty to meet the charge.

17 In the Smythe case, the issue was whether a
18 single family exemption to this law applied or didn't
19 apply.

20 In the Goldberg case, your Honor, they did just--
21 the government did just what it had not done in this
22 case: they set forth a schedule, a list of properties
23 in which claimed discriminatory practices have been
24 followed and enumerated lots. The issue there was
25 whether lots were being denied to people because of

1 race, and they set forth a list of lots which were so
2 involved.

3 As you go through this whole thing, I don't find
4 any case or anything which says that the only facts
5 that have to be in a complaint are the names of the
6 defendants, and beyond that you just photostat the
7 statute and then file a list of interrogatories and
8 put the defendant to its proof and shift the burden--
9 really, your Honor, what this is, is a shifting of the
10 burden on the defendant to establish in preliminary
11 proceedings, its innocence of a charge which has never
12 been made specifically against it.

13 (Continued on next page).
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I don't see what reason, in the name of fairness, candor and type of fair play, the Government should stand for, that can occasion the Government not to be willing in this case to give us some factual specifics as to when, where and how they claim there has been discriminatory practice in this case.

Having failed to do so, at this point, we ask your Honor most respectfully to dismiss this complaint or make them replead in conformity with the practice in this District, and, as far as I know, in every Court and District in the United States.

The only other motion -- I have covered the interrogatories, your Honor, and I would say we certainly do want to be heard on that, as your Honor might gather, but I would think we would all agree that is probably appropriately dealt with after we all get your Honor's disposition about how this complaint should be handled.

I had a little conversation with the very nice representative of the Government, and I don't think we will have any problem on that. They have made a motion to dismiss our counter-claim. We have sued for a hundred million dollars, which is a possibly --

THE COURT: A tidy sum.

MR. COHEN: A tidy sum, your Honor, right. They say it is 90 percent logic, or something, than

1 anything that's been sued for in previous cases like
2 this, and I am not prepared to dispute them factually
3 on that.

4 The basis of the suit is that the action in
5 bringing the action was unauthorized; that it is
6 something that goes beyond an abusive process.

7 The Government contends that what we are really
8 saying is -- here's what they say, they say three
9 things, your Honor -- they say four things, they say,
10 first of all, that our pleading is defective in that
11 an attorney of record did not personally sign it.
12 And they might have me on that.

13 If they do, I would be willing to sign a pleading,
14 and they might be right about that, and I would be
15 willing to sign it.

16 The second objection they make, is that it is
17 not timely, that the time to file something like this
18 after an answer has been -- after the motion before
19 your Honor on the complaint is disposed of, and after
20 an answer, if that becomes necessary, is filed by us.

21 But it seems to me they then go on to say we
22 have something here which is a compulsory counter-claim,
23 meaning that it must be asserted at an early stage of
24 the proceedings, and I don't know how point two fits
25 in with point three. If the fact is there should be

1 made at a later time, we would be agreeable to a
2 severance without prejudice on their part to -- when
3 we renew it, to raise whatever objections they want.

4 Now, they come to number four, which is a basic
5 objection, and they say that the Government without
6 its consent, which it has not as yet given, -- I am
7 hopeful, of course, in the interest of fair play, they
8 probably are going to advise your Honor this morning
9 that they intend, as a matter of fairness, to give it,
10 because they have nothing to fear insofar as any damage
11 verdict from your Honor or a jury in this case, because
12 their actions have been entirely proper. So I know in
13 the spirit of fairness that now prevails, I am looking
14 forward hopefully for such a gesture from the Government.

15 Absent that, they say that we would be entitled
16 to come in here under the Federal Tort Claims Act, if
17 there was an action by the Government officials even
18 within the scope of their duties, which results in
19 injury and damage to the defendants.

20 But they say that there are exclusions from the
21 Federal Tort Claim Act, namely, libel, slander and
22 abusive process, and they construe our counter-claim
23 in this case, to amount to a contention of libel,
24 slander and abusive process and therefore, not proscribed
25 but not within the permissive features of the Federal

1 Tort Claims Act without first consent by the Government.

2 We don't view it that way. We say in a pleading
3 stage, what is sauce for the goose is sauce for the
4 gander, and in a pleading stage, where we are now,
5 that our counter-claim is sufficient under the lack of
6 the Federal Tort Claims Act to spell out damage and
7 injury, and it cannot be determined that the only damage
8 and injury, would be libel, slander or abusive process.

9 It might be damage to property and damage to
10 reputation, other than by libel and slander, and things
11 which are not proscribed by the Act, and which do not
12 require the consent of the Government in order to be
13 sued.

14 However, if they are right on the lack of timeli-
15 ness in the raising of this issue, we are perfectly
16 agreeable to a severance as to that, and as to a renewal
17 when, as and if an answer has to be filed in this case,
18 with the reservation of their rights, and with an
19 opportunity on their part to consult with what I guess
20 all of us hope will be an Attorney General with some
21 degree of permanence, unlike the one who signed this
22 complaint, as to whether the Government would be willing
23 to be sued in this action.

24 Your Honor has been very patient with me and I
25 think that's all I would like to say on these motions.

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1 THE COURT: All right. Now, let me hear on
2 the matter of the complaint. I take it you are going
3 to proceed with Miss Goldweber on that?

4 MS. GOLDWEBER: Good morning, your Honor.
5 Firstly, I would like to remark that this action is
6 a civil action and not a criminal action. The United
7 States filed its complaint in this action on October
8 15, 1973, and alleged that the defendants have engaged
9 in racially discriminatory conduct with respect to the
10 rental of their apartments, in violation of the Fair
11 Housing Act.

12 The defendants, and if I understand their
13 argument correctly, have moved this Court to dismiss
14 the Government's complaint because it fails to state
15 a claim upon which relief can be granted.

16 The United States contends to the contrary,
17 that its allegations contained in paragraph five of
18 the complaints specifically state a claim upon which
19 relief can be granted by alleging, firstly, that the
20 defendants have refused to rent apartments to persons
21 on account of their race and color; that they have
22 required different terms and conditions with respect
23 to the rental of those dwellings on account of a
24 person's race and color.

25 They have made discriminatory statements with

1 respect to the rental of these dwellings, and that
2 they have represented their dwellings were unavailable
3 for rental, when, in fact, such dwellings were available.

4 We claim in paragraph six of the complaint,
5 that this conduct constitutes both a pattern or practice
6 of racial discrimination in violation of the Fair
7 Housing Act, and a denial to groups of persons of
8 rights secured to them by the Fair Housing Act.

9 For the purposes of a motion to dismiss,
10 plaintiff's allegations in the complaint are deemed
11 admitted and the only thing that is contested, is
12 plaintiff's right to recover under the law.

13 Obviously, if the United States can prove
14 at trial, among other things, that the defendants
15 have refused to rent apartments to persons on account
16 of race and color, then the United States will be
17 entitled to both affirmative and injunctive relief,
18 pursuant to 42 USC 3613.

19 Now, Mr. Cohn has said that the other cases
20 that we have cited in our brief, specifically pages
21 five and six, have all pleaded evidentiary matter.
22 I respectfully disagree with him since each and every
23 complaint that has been filed under the Fair Housing
24 Act by the Attorney General, has been written in the
25 same Section of the Government, signed by the same

1 people, and all have been substantially similar, and
2 none of them have pleaded any kind of evidentiary
3 allegations.

4 Also, for the cases where this has been
5 discussed, which are referred to on page five of the
6 brief, they go on to say that a complaint such as
7 this, couched as this one is in the very language of
8 the Fair Housing Act, is sufficient because it meets
9 the requirements of Rule 8 of the Federal Rules,
10 because it clearly apprises the defendants of the
11 nature of plaintiff's claim and the grounds upon which
12 it rests.

13 Accordingly, the United States respectfully
14 urges that defendant's motion to dismiss, would be
15 denied.

16 THE COURT: I certainly get the purport of your
17 motion. I have a few questions that do arise with
18 this complaint, and even though, as you point out, this
19 is a civil action and not a criminal action, the fact
20 is, it is an action brought by the United States
21 Government, which does charge a somewhat serious course
22 of conduct, which, if true, would be clearly in
23 violation of fundamental national policy, which
24 certainly imply perjorative inferences, so far as the
25 defendants were concerned, and the like.

1 I have looked at your paragraph five and I
2 realize that under our very liberal notice form of
3 pleading permitted in civil actions that in essence
4 what you seem to say in five, is to the defendant,
5 "You have violated the law." And you say, in effect,
6 "You have violated the law by refusing to rent rentals,
7 making statements and so forth, and so to some extent"
8 -- how does a plaintiff faced with such a complaint,
9 deal with it? There is no allegation, as I see it,
10 of time or place, and I notice, under Rule 9, which
11 follows Rule 8, that for the purpose of testing the
12 sufficiency of a pleading, of averment of time and
13 place or material, and shall be considered like all
14 other averments, in a material matter.

15 The reason that I bring that up is because
16 of other motions now pending before the Court, with
17 respect to interrogatories served on the defendants
18 by the plaintiff, asking for information, dating back
19 to 1968, which I take it, was even the year of the
20 enactment of this Act.

21 MS GOLDWEBER: Right.

22 THE COURT: And yet there is no statement of
23 time or place in this pleading, which would enable
24 a defendant perhaps to challenge interrogatories that
25 go back to 1968, as not being consistent with the
causes of action pleaded.

1 For example, while I assume that the Government
2 does not make this charge in a capricious way and
3 undoubtedly believes it has the proof or will certainly
4 be able to prove these allegations, I do have some
5 doubt, despite the array of authority which you have
6 cited to me, and which I have examined, that I find
7 it difficult to assimilate this case to Connolly-Gibson
8 type situations which involved a small band of negro
9 workers, who felt themselves discriminated against
10 by their union.

11 While the Court does not set forth the exact
12 allegations, the case is reminiscent of others that
13 Mr. Cohn pointed out in your supplemental appendix of
14 opinions, such as preventing the construction of one
15 apartment house or dealing with a situation of not
16 permitting colored people to visit white people in a
17 particular building, have a certain definition about
18 them that make it possible for a defendant so charged,
19 let us say, to deal with them in a reasonable manner.

20 I am raising this question not capriciously
21 either, because we have many administrative agencies
22 coming before this Court, and a very recent case brought
23 by the Securities and Exchange Commission, seeking the
24 same kind of relief that you seek, that is to say,
25 affirmative injunctive relief, in which, when you look
at the complaint, no defendant could complain about it

1 because it tells him very definitively what he is
2 being charged with, in effect, having violate the
3 Securities Exchange Act, specifically, definitely,
4 and this, as I say, may be doing more than is required.

5 But all I am pointing out is that I think
6 Mr. Cohn's complaint about the complaint is not altogether
7 without basis. I am not certain that it is an answer
8 to say that he can get all these particulars by interr-
9 rogatories when part of his job is to resist your
10 interrogatories on the basis of the complaint that
11 sets no time limit, does not give any particulat
12 location of building, or what nature of statements were
13 made or what particular practice.

14 So I do think a problem is presented here, and
15 I am wondering whether the Government in fairness to
16 a defendant, doesn't have more of an obligation than
17 does the private litigant versus the private litigant,
18 to inform someone it sues in this manner -- and as I
19 say, sues in this particular area, which, although not
20 criminal, might well be because we know there are
21 criminal statutes, that persons who conspire to deprive
22 others of civil rights, may well be charged criminally,
23 under 18 US 241, for example.

24 That includes invading a psychiatrist's office
25 and looking in his file -- you just saw that in the

1 paper yesterday. So I must say that many of these
2 cases you cite, I feel do not perceive the problems
3 in an area such as New York City, where you are
4 dealing with a landlord of not one hundred apartments,
5 but fourteen thousand apartments, a far flung, wide-
6 spread organization; that something in the way of a
7 definition should be conveyed in the Government's
8 initial pleading, so that proper interrogatories might
9 even be served on that basis, and issues more readily
10 brought into sharper focus.

11 Ar the moment, as I see it, this is a very
12 broad, undefined picture, of a pattern, and the
13 defendant is saying "I can't even see the pattern."

14 MS. GOLDWEBER: I would like to respond to that.

15 THE COURT: I understand and I am perfectly happy
16 to have you do so.

17 Do you feel or don't you feel--there is some
18 justice to the complaint that in this type of situation
19 there ought to be a more definitive depiction -- and
20 I am not saying evidentiary facts -- but something
21 that says beginning at such and such a time, in buildings
22 located at so-and-so -- they might even be separate
23 causes of action, I don't know whether that would be
24 required -- so that the proof could be dealt with in
25 terms of more definitively stated claims that appear in

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this document.

As I say, I would be perfectly willing to supply you with the latest SEC production, to illustrate what I mean when I say that this would not bring about the sort of controversy we have here, since it so clearly lays out for the defendant in that case, what they have done wrong.

MS. GOLDWEBER: Well, your Honor, in this case, I respectfully have a bit of a different interpretation. I think, first of all, one of the defendants, Donald Trump, and defendant's counsel, they have both filed affidavits with this Court, denying that there was any discriminatory conduct on the part of any of the defendants, to their knowledge, and the Government's charges are totally unfounded.

THE COURT: Of course, that is all conclusory, isn't it? It is conclusions opposed to conclusions; I deny what you say, but I frame my denial in an affirmative way, rather than in a negative way.

MS. GOLDWEBER: I understand that, but I seem to believe that if they had done that, then they would have been able to answer the complaint and that's all they would have to do.

THE COURT: From the standpoint of dealing, let's say, with your interrogatories, how can they successfully

1 object to interrogatories going back to 1968, if they
2 don't know whether or not you may be seeking a broader
3 scope of information, time-wise, chronologically, than
4 would be demanded by the allegations of your complaint?

5 I don't say that those are necessarily limiting
6 of discovery, but very often, Courts will, when
7 confronted with objections, to interrogatories, look
8 at the complaint in terms of time, and, for example,
9 one of the things that occurs to me, doesn't a statute
10 of limitations ever run against a claim such as this?

11 MS. GOLDWEBER: We are not allowed to prove
12 racial discrimination, based on things that happened
13 prior to the effective date of the Act, but we can
14 bring in evidence to --

15 THE COURT: I can understand the probative value
16 of prior conduct, on issues of intent and design, and
17 so forth; I understand that.

18 That is a different question.

19 We are getting into the area of evidence, and,
20 of course, I understand that discovery is designed to
21 enable parties to call upon the parties -- call upon
22 the other parties to produce information, even leading
23 to the discovery of evidence, as well as evidence, in
24 order to support a claim or defense against a claim.

25 These are commonplace. I am sure you understand

1 that.

2 When you are talking about a large, complex,
3 fourteen thousand apartments -- and again, where it
4 does occur to the Court that there are certain laws
5 which prohibit inquiries directed to race, for
6 example, I don't believe in its employment policy--
7 I am not passing on it -- I was suprised to see that
8 interrogatory in this case, I will be frank to say
9 that, but I believe it would be against the law to
10 require in an employment situation as to the race
11 of any particular person. I believe so. That is my
12 understanding.

13 MR. SCHWELD: Could I say one thing about that,
14 your Honor. We have done a lot of employment work.

15 THE COURT: Yes.

16 MR. SCHWELD: The Equal Employment Opportunity
17 Commission requires each employer of over 15 or 20
18 employees, I believe, to keep a racial census because
19 it has helped the EPOC in enforcing Title 7.

20 THE COURT: That is now a new policy since the
21 enactment of that Act, as I recall it. But, for
22 example, here in New York, it was against the law for
23 any employment agency to inquire as to the race of any
24 person trying for a job. I understand that supremacy
25 demands that the Federal law take precedence, but there

1 may be, and I don't know when the Equal Employment
2 Opportunity Act -- is this under regulations of the
3 Commission?

4 MR. SCHWELD: Yes, your Honor, pursuant to
5 Title 7, which we have had since '64.

6 THE COURT: I don't know when these regulations
7 were adopted. They may be comparatively recent.

8 MR. SCHWELD: I don't mean to interrupt my
9 colleague, your Honor, but it has been about seven
10 or eight years ago, at least.

11 THE COURT: It is that long ago?

12 MR. SCHWELD: Yes, sir.

13 THE COURT: I see. There are problems such as
14 that that may crop up in terms of the way this case
15 appears in the light of what I have seen in the papers
16 before me. I am simply mentioning these things to
17 point out again the interests that can be served by
18 some attempt at definition rather than simply a charge
19 that you have violated the law, which is the way I have
20 to read this complaint.

21 MS. GOLDWEBER: I think there are two separate
22 issues that are involved here. In response to the
23 interrogatories, in which we ask for fairly detailed
24 information, if your Honor will still entertain defendant's
25 objection that they could file with their answers to

1 these interrogatories, then we will be prepared to
2 defend each and every interrogatory, and if your
3 Honor felt at that time that we did not defend it
4 well enough, then the defendants would not be ordered
5 to answer that interrogatory.

6 The fact is we have sued people, filed complaints
7 across the country against a lot of defendants who
8 are in control of many units, ten, twelve thousand
9 units, and in all of those complaints, as I said before,
10 they were very similar to this, and in the Raymond
11 complaint, which Mr. Cohen referred to, it did not
12 allege specific facts in the complaint, and none of
13 the complaints have.

14 The fact which is not really at issue here today
15 is that we ask for -- we allege employment relief in
16 the complaint, and we inquire about it in the
17 interrogatories. Well, there have been three cases that
18 have held that employment relief, once the Government
19 has proven a Fair Housing case, and the Court has
20 ordered relief, they have been entitled to also get
21 employment relief as an incident to the housing
22 affirmative relief they have been able to obtain.

23 We are certainly ready and willing, if we are
24 served with interrogatories, or depositions are taken
25 of our witnesses, to give any kind of proper evidence

1 that we don't object to to the defendants, to apprise
2 them more clearly of what is happening.

3 I believe that because they have filed these
4 affidavits denying it, that they can just deny the
5 complaint, and their motion for more definite statement,
6 which requests specific facts, as to the names, dates
7 and persons involved in the alleged violations of the
8 Fair Housing Act, is just the kind of thing that a
9 motion for more definite statements should not be
10 utilized for.

11 (Continued on next page.)
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1 THE COURT: Well, I understand that interrogatories
2 are demanding in terms of specificity, and that might
3 have been better remedy for defendants to seek.

4 I think, however, what concerns me is that you
5 get a complaint like this followed by a fairly
6 exhaustive demand for interrogatory answers by the
7 Government, that is on the part of the Government,
8 there is no time period, no time frame possible to
9 determine from the face of the complaint as to whether
10 such an enormous request going back six years would
11 be justified, at least in the first instance, without
12 some more of a showing that what was asked for was
13 truly relevant to the issues that were going to be
14 litigated.

15 MS. GOLDWEBER: Could I suggest that one thing --
16 the Court's purpose is served as well if the defendants
17 knew he filed a denial, general denial to the complaint,
18 and then filed with this Court, either a motion for
19 protective order to give them further time to object
20 or an answer to the interrogatories, and then filed
21 their answers or objections, and then each specific
22 thing that is contained in that interrogatory, so we
23 would understand exactly what everyone was objecting
24 to, and it wouldn't be just sort of a vast array of
25 things, but we would know specifically what interroga-

1 tories the defendants don't feel was relevant and the
2 United States would be able to try to defend that
3 specific interrogatory or however many there are.

4 THE COURT: As I say, I recognize that the
5 purpose of the rule was to try to do away with the
6 unnecessary focussing on pleadings and papers and
7 get down to the merits of the claim. I heartily believe
8 in and will endorse that principle. I would be inclined
9 here to give the defendants an opportunity to serve
10 upon the Government a set of interrogatories seeking
11 definition, without depriving the Government of any
12 opportunity to object to anything about those that they
13 might think should be objected to, and I would, in
14 effect, deny the motion to dismiss the complaint with
15 that understanding, that you will have an opportunity
16 within --

17 What would be a reasonable time in which you
18 could put together something like that?

19 MR. SCHWELD: You mean to answer them or to
20 file them?

21 THE COURT: To file them. How much time would
22 it take to file them?

23 MR. SCHWELD: Mr. Cohn says 45 days to file
24 them. I would think we could file them informally
25 if we write down what he wants to know and then answer

1 them in twenty days.

2 THE COURT: Could you get up a set in two weeks?

3 MR. COHN: Sure.

4 THE COURT: Two weeks. I am pointing out to
5 you, this is not intended to be an exhaustive draft
6 upon the Government, but rather a preliminary attempt
7 to obtain some more definition of matters, let us say,
8 covered in five. I think that seems to be the sensitive
9 paragraph of the complaint, as a starter. That would
10 be, of course, without prejudice to further interrogatory
11 work or discovery work of one kind or another as time
12 goes on.

13 I would deny the motion to dismiss the complaint
14 on that basis.

15 MR. COHN: That would be a very fair disposition,
16 your Honor. Within two weeks, we will file in effect,
17 interrogatories cast in the form of a Bill of Particulars
18 to try to define some of these things.

19 MR. SCHWELD: Does that include the more
20 definite statement motion, your Honor, also?

21 THE COURT: Yes. It would dispose of that as
22 well. Obviously, yes.

23 With respect to the Government's demand for
24 interrogatories, I would, assuming that Government is
25 willing, extend a reasonable period of time to the

1 defendants to object, because, apparently, they have
2 been operating on a misunderstanding here as to
3 how the Federal procedure operates.

4 I would expect that, to the extent possible,
5 any interrogatory not objected to, would be answered
6 within a reasonable time, so that there wouldn't be
7 a complete delay in progress.

8 In other words, I assume you will make a
9 selection of those interrogatories that you feel you
10 have a good objection to, and you urge that, and that
11 as to others, an attempt will be made to answer them.

12 Now, let me point out to you, I believe it to
13 be the rule, that you don't have to answer something
14 you can't answer. You are at liberty to state that.

15 There is also a problem of burden which you
16 may consider raising, that is to say the making of
17 revelations, but it may be that you will then be faced
18 with the Government's demand for productions, the right
19 to inspect and copy your records.

20 That may be an alternative, since the Government
21 has its resources, and I take it you would contend that
22 your client's resources are somewhat limited.

23 MS. GOLDWEBER: We have made that offer in the
24 interrogatories, that if defendants didn't want to
25 compile all this information, we would, at their

1 convenience come in, and inspect their documents.

2 MR. COHN: Your Honor, I think we all get your
3 reasoning, and I think it is a very fair disposition
4 on the matter. Should we try to agree on an order
5 fixing time limits?

6 THE COURT: Could you work that out?

7 MR. COHN: Sure. I don't see why we can't.
8 We will take the two weeks suggested by your Honor,
9 and consider that a firm date by which we serve
10 interrogatories on the Government. They will want how
11 long to answer?

12 THE COURT: Why don't you work those things out?

13 MR. COHN: We will work those out and submit
14 an order to you that will provide for that.

15 A certain period of time after they answer the
16 interrogatories, so we have a little better idea what
17 this complaint -- what periods of time this complaint
18 covers, and all of that, then shortly thereafter we
19 will answer those interrogatories we can, and move
20 against those, we don't think we ought to answer.

21 What does this do to a formal answer to the
22 complaint, may that be deferred?

23 THE COURT: No. I would suggest that you answer
24 the complaint as best you can. However, I would suggest
25 that you don't include your counter-claim, because I am

1 going to dismiss it.

2 MR. COHN: We won't include the counter-claim.

3 THE COURT: I have to say that there are simply
4 too many hurdles in that counter-claim, not the least
5 of which is, no matter how you slice it, Mr. Cohn, it
6 still comes out as a claim of tortuous conduct.

7 It certainly fits squarely, in my judgment, within
8 the framework of the Federal Tort Claims Act --

9 MR. COHN: Which would require consent --

10 THE COURT: Yes, it would, under 2680. It is,
11 in my judgment, an accepted type of claim, and if the
12 party consented to be sued within the framework of
13 that Act, as I say, I think you would be wasting time
14 and paper, and diverting yourself from what I consider
15 to be the real issues you have to meet if you do so.

16 The Court is very mindful of the importance of
17 the interests involved here to both sides, the Government
18 -- the Attorney General has a job to do, and it is not
19 discretionary, it is imposed by law.

20 If your clients are violating the law, it is,
21 -- it is his duty to take action. On the other hand,
22 if you believe they are not, it is your duty to do
23 something about it.

24 I am giving you that opportunity.

25 MR. COHN: I appreciate it very much. I think
we all understand the purport of your Honor's views, and

1 we will try to draft an order covering all these things
2 and submit it to your Honor.

3 THE COURT: Fine. Is there anything that has
4 not been covered here?

5 MR. BRACHTL: Just one question with respect
6 to the dismissal of the counter-claim. Do you wish
7 an order?

8 THE COURT: That could be included. Whatever
9 order you submit could include that. If you wish it
10 separately, I see it as sort of an anomalous document,
11 it sort of walked into court, it wasn't an answer, it
12 was a counter-claim.

13 MR. COHN: What we will do probably is just omit
14 it from an answer, and they don't have to do anything.

15 MR. BRACHTL: We would suggest, your Honor, that
16 would be appropriately amended, and because the counter-
17 claim cannot be asserted except in a pleading, and, hence,
18 the pleading which has been asserted, contains no --

19 THE COURT: I think Mr. Cohn gets the point.
20 It drops out of the picture entirely, and he will
21 serve a proper answer to the existing complaint the
22 best he can. But he will have the opportunity to frame
23 the questions in preliminary interrogatories, if you
24 want to call them that, to give you an opportunity so
25 that you may amend your answer if you think that is
called for. Do you understand?

1 MR. COHN: Perfectly, your Honor.

2 MR. BRACHTL: We will submit a short form order
3 with respect to the dismissal.

4 MR. COHN: Why don't we agree on a total order
5 and just submit it?

6 MR. SCHWELD: We have an order which you might
7 conwider signing on the motion --

8 MR. COHN: Why don't we submit ~~one~~ order?

9 I think we are looking for another press release
10 or something --

11 MS. GOLDWEBER: No, we are not.

12 THE COURT: I have your proposed order here.
13 I would believe that ~~the~~ order ought to encompass what
14 we have discussed here this morning. If you wish a
15 separate order on the counter-claim, that is immaterial.

16 So far as you are all here together, the counter-
17 claim stands dismissed.

18 MR. COHN: May we do this, could we have an
19 understanding from here on in -- and I think we will
20 probably get agreement to this -- that they stop putting
21 ~~out~~ press releases and try this case in court?

22 THE COURT: Mr. Cohn, having served as a
23 United States Attorney -- and I think you were an
24 Assistant -- you know that the Government, unlike a
25 private litigant, does have to keep the public informed.

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2 I must say that I have to agree that I think
3 the document they issued was most chaste, and under
4 the circumstances, it is just one of the things that
5 you have to grin and bear when you are a litigant.

6 On the other hand, there is such a thing as
7 fair trial as well as free press, and consequently,
8 I would hope that the Government will not be putting
9 out anything which will ~~impair~~ or prejudice the rights
10 of these defendants to a fair trial of the issues
11 involved in this case.

12 MR. COHN: They have indicated to me by a
13 nod there will be no press release.

14 MR. SCHWELD: Wait a minute. He said the motion
15 about a definite statement. I think your Honor is
16 acquainted with what you do when a judgment comes out
17 in a case, your Honor; it is usually released to the
18 press when a complaint is drawn, but I think, as your
19 Honor said, this was extremely chaste.

20 THE COURT: You don't have to apologize.

21 MR. SCHWELD: I am not.

22 MR. COHN: I indicate we are going to try this
23 in court and not in the press. Is that fair?

24 MR. SCHWELD:.. It is fair.

25 MR. BRACHTL: But it is not a limitation upon
informing the public.

1 MR. COHN: Prior to a determination.

2 Are you planning any press releases on any
3 of these proceedings?

4 (Discussion off the record.)

5 MR. COHN: You are not planning further press
6 releases, is that right?

7 MR. SCHWELD: If there is a judgment in the
8 case at some time, it will be given to the press.
9 As to the judgment whether the counter-claim has been
10 released, I don't know whether the public information
11 will press release that or not. I am not going to
12 give any assurance they won't. When they brought
13 this hundred million dollar counter-claim, they
14 definitely wanted mentioned that it was dismissed.

15 MR. COHN: I want it mentioned that the Judge
16 stated that we have the opportunity, if you are going
17 to start this again -- these people have to rent, your
18 Honor, and do business in this community. If they are
19 going to start parading around, stating that the
20 counter-claim is dismissed or something, I am going
21 to have to start with the fact that your Honor has
22 given us leave to file interrogatories against the
23 complaint, which was not --

24 THE COURT: Let me put it this way, Mr. Cohn.
25 Unfortunately for your clients, because they are so

1 large and well known, they become objects of newsworthy
2 interest. For all I know, the press is here right now.
3 But I do think that so far as the Government is
4 concerned, it understands at this point, now that the
5 matter is in litigation, it has announced what has
6 occurred and I assume it will await that blessed day,
7 one way or the other, when they win the lawsuit, as
8 they confidently think they are going to do, you see,
9 and that we won't have any intervening communiques
10 between opposing capitols.

11 MR. COHN: That's fine, your Honor.

12 MR. BRACHTL: All of this must be in context,
13 of course, of the continuing interest of the press,
14 and inquiries which are made, which require, I think,
15 as a public obligation, a response.

16 THE COURT: Mr. Brachtl, if your fellows upstairs
17 would apply your time and attention to the prosecution
18 of the business of the office and let the press ferret
19 it out, that would perhaps resolve the problem.

20 MR. COHN: One further thing, I would appreciate
21 it, if your Honor would hold the orders and sign
22 everything at the same time.

23 THE COURT: When I see new orders come in, I will
24 take care of them.

25 One thing I would remind you of, and in this

District and in the Southern District, too, we have a local rule, where objections to interrogatories are made, it is the responsibility of the lawyers to first try and iron out their differences, and only plague the Court, which has enough to do in this District, so much larger than the Southern District, and with so many fewer Judges --

MR. COHN: But by their competence, they make up in quality for what is lacked in quantity.

THE COURT: Thank you, Mr. Cohn. But that won't get you anywhere.

You are under obligation to try and discuss the matter --

MR. COHN: As long as they promise not to talk about a consent decree, we will have a meeting.

MR. SCHWELD: We love to litigate the case, your Honor.

MR. COHN: Thank you for your time.

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I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT OF MY STENOGRAPHIC SOURCE ORIGIN BY SUCH PROCEEDING.
[Signature]
OFFICIAL COURT REPORTER

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IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ MAR 6 1974 ★

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
FRED C. TRUMP, et al.,)
)
Defendants.)
_____)

CIVIL ACTION NO. 73 CIV. 1529
TIME A.M. _____ P.M. _____

PLAINTIFF'S ANSWERS AND OBJECTIONS
TO DEFENDANTS' FIRST INTERROGATORIES

The United States of America, plaintiff herein, by its undersigned attorney answers the interrogatories served on it by the defendants and sets forth below the factual elements of the allegations of discrimination contained in paragraphs 5 and 6 of the complaint by providing the names of persons who have knowledge of information relevant to the subject matter of the claim. The evidence which supports paragraph 5 of the complaint also supports paragraph 6.

Answer to Interrogatory Number 1 and Number 2

The defendants through their agents or employees have made apartments unavailable on account of race in the following ways which are presently known to the plaintiff:

(A) Several black persons have been advised by agents of defendants, on account of race, that apartments were unavailable when apartments were, in fact, available; the defendants have quoted different terms of rental to certain black persons from those quoted to white persons; and statements were made by agents of the defendants with respect to the rental of dwellings which indicated a preference on account of race.

The following individuals have provided information with regard to the above:

Fontainebleau Apartments
8855 Bay Parkway
Brooklyn, New York
160 units

1. On July 22, 1972, Ms. Henrietta Davis, black, (10 Plaza Street, Brooklyn, New York) tried to obtain an apartment at the Fontainebleau. The superintendent, believed to be Ken Fici, told her he had no authority to accept applications for rental. Muriel Salzman,^a white tester from the Urban League, (2820 Ocean Parkway, Brooklyn, New York) went to the Fontainebleau directly after Ms. Davis and was told by the same superintendent that she could immediately rent either one of two available apartments. */

Beachaven Apartments
Sheepshead Bay
Brooklyn, New York
1200 units

2. On July 31, 1972, Godfrey Jacobs, a black tester from the Urban League, (2401 Nostrand Avenue, Brooklyn, New York), came to the Beachaven in response to an advertisement of a vacancy. The rental agent, believed to be Mr. Levy, told him that no one-bedroom apartments were available at Beachaven. Later on July 31, 1972, George Sim Johnston, white, employed by the Urban League, (131 East 69th Street, New York, New York) was shown a one-bedroom apartment at this complex which the rental agent told him could be rented immediately.

*/ All of the persons with relevant information to this lawsuit, set forth in plaintiff's answers to defendants' interrogatories were interviewed by Elyse S. Goldweber, a Departmental attorney, unless otherwise specified.

3. In December, 1972, Beverly Best, black, (2681 West Second Street, Brooklyn, New York) after being telephonically advised by an agent identifying himself as Mr. Rosenberg that a one-bedroom apartment was available was told by said agent upon her arrival the following day at the Beachaven, that no apartments were available for rental. Ms. Best was treated rudely. Ms. Best filed a complaint with the New York City Human Rights Commission and was subsequently admitted to tenancy. Phyllis Kirschenbaum, (1833 Ocean Parkway, Brooklyn, New York) a white tester who dealt with the same agent a few days after Ms. Best, was offered a rental application for a one-bedroom apartment.

4. On March 10, 1973, Muriel Silberberg, black, an employee of the New York Human Rights Commission, (52 Duane Street, New York, New York) was told by the rental agent at Beachaven who identified himself as Paul Ziselman that no one-bedroom apartments were available. Later on the same day, the same rental agent at Beachaven volunteered to Phyllis Spiro, white, an employee of the Urban League, (150 Fifth Avenue, New York, New York) that although he had no one-bedroom apartments available at that time, a one-bedroom apartment would be available as of April 1, 1973. Mr. Ziselman also acknowledged to Ms. Spiro that he followed a racially discriminatory rental policy at the direction of his superiors, and that there were only very few "colored" tenants at the Beachaven.

Lawrence Gardens
3301-3315-3223 Nostrand Avenue
Brooklyn, New York
160 units

5. On March 10, 1973, Ms. Silberberg, black, an employee of the New York City Human Rights Commission, was also told by the rental agent at Lawrence Gardens who identified himself as Mr. Limani that there were no one-bedroom apartments available for rental. Later that day, Ms. Spiro, white, an employee of the Urban League, was shown two vacant one-bedroom apartments by the rental agent at this complex.

Shorehaven Apartments
1483-93 Shore Parkway
Brooklyn, New York
1100 units

6. On July 22, 1972, Henrietta Davis, black, (10 Plaza Street, Brooklyn, New York) was told by the rental agent at the Shorehaven, believed to be Mr. Sarnell, that no apartments were available, but that she should try to obtain an apartment at Patio Gardens. Ms. Davis was not similarly encouraged to apply at any other Trump buildings, most of which are believed to be substantially all-white. Patio Gardens is substantially integrated, and Mr. Sarnell encouraged Ms. Davis to apply there by relating that a black judge had recently become a tenant.

Highlander Hall
164-20 Highlander Avenue
Jamaica, New York
165 units

7. On April 21, 1973, Annette Gandy, black, (164-20 Highlander Avenue, Jamaica, New York) went to the above apartment complex in response to a newspaper advertisement indicating that studio apartments were available. The superintendent, who identified himself as Mr. Zeller, told Ms. Gandy that there were no vacancies

and the apartments that had been advertised in the newspaper had already been rented.

On April 23, 1973, Monique Golden, a white tester from the Urban League, (170-25 Highland Avenue, Jamaica, New York) went to the above complex to inquire about renting a studio apartment. The same rental agent indicated that he had three vacant studio apartments in the building and offered Ms. Golden an application. On April 24, 1973, Ms. Gandy filed a complaint with the New York City Human Rights Commission and was subsequently admitted to tenancy.

Kendall Hall Apartments
41-10 Bowne Street
Flushing, New York
165 units

8. On February 6, 1970, Mr. and Mrs. Ronald Bunn, black, (41-10 Bowne Street, Flushing, New York), applied for an apartment in response to a New York Times advertisement. The superintendent, who identified himself as Mr. Spitrey, told the Bunn that there were no 3 1/2 or 4 1/2 room apartments available. On February 7, 1970, Ralph Stein, white, (134-54 Maple Avenue, Flushing, New York) was offered an application for a 3 1/2 room apartment. On April 9, 1970, Mr. and Mrs. Bunn filed a complaint with the New York City Human Rights Commission and were subsequently admitted to tenancy.

Westminster Apartment
405 Westminster Road
Brooklyn, New York
165 units

9. On February 26, 1972, in response to a newspaper advertisement of a vacancy, and on March 18, 1972, Alfred Hoyt, black,

(11728 Wilshire Blvd., Los Angeles, California) was told by Mr. Cannon, who identified himself as the superintendent, that no two-bedroom apartments were available for rental. On March 19, 1972, Mrs. Sheila Hoyt, Mr. Hoyt's wife, who is white, was offered an application to rent a two-bedroom apartment at this complex. Mr. Hoyt filed a complaint with the New York City Human Rights Commission and the Hoyts were subsequently admitted to tenancy.

* * * *

In addition to the foregoing, plaintiff is aware of seven complaints of alleged discriminatory practices by the defendants filed with the New York City Human Rights Commission. To date, only two of these additional seven complainants have been located:

(a) During the summer of 1960, Harriette Bolling, black, (77-79 Columbia Street, New York, New York) was told by the rental agent at the Shorehaven Apartments that she could not rent an apartment at that complex because blacks were not being admitted. Ms. Bolling filed a complaint with the New York City Human Rights Commission and was admitted to residency. (Interviewed by Special Agents Robert F. McCarthy and Michael J. Hayes).

(b) In early 1964, Mrs. Mae F. Brown, (163-17 130th Avenue, Jamaica, New York) was told there were no vacancies at the still uncompleted Wilshire Apartments, Mrs. Brown subsequently filed a complaint with

the Commission and was offered an apartment, which she declined. (Interviewed by Special Agents Edward F. DeRosa and John Aherne).

The following complainants have not been located by plaintiff:

(a) James Chestnut - Last known address was 166-05 Highland Avenue, Jamaica, New York.

(b) Charles Hall - Last known address was 89-31 161st Street, Jamaica, New York.

(c) Mrs. Carl Nickelson - Last known address was 2064 Cropsey Avenue, Brooklyn, New York.

(d) Lorraine Haynes - Last known address was 2611 West 2nd Street, Brooklyn, New York.

(e) Robert Edward Harris - Last known address was 2064 Cropsey Avenue, Brooklyn, New York.

* * * *

(B) 1. Defendants' comptroller, Mr. Stuart Hyman, Mrs. Williams and Ms. Sophie (LNU) at Trump Management Inc. have instructed a former superintendent at Kendall Hall, Mr. Thomas Miranda (39-89 50th Street Woodside, New York) to attach a separate sheet of paper to every application submitted by a prospective "colored" renter. On this separate sheet of paper, Mr. Miranda was instructed to write "C" in order to indicate that the prospective tenant was "colored."

2. Mr. and Mrs. Harry Schefflin, last known address 33-24 Parsons Blvd., Whitestone, New York, have advised counsel */ for plaintiff that they were

*/ Frank E. Schwelb and Elyse S. Goldweber

employed in a general rental capacity at the Briarwick Apartments during the fall of 1973. This building was purchased by the Trumps during the late summer of 1973, and was substantially integrated at the time. The Schefflins advised that Mr. Fred Trump and other agents, including Mr. Wiss, wanted them to rent only to "Jews and Executives" and discouraged rental to blacks. They advised that a racial code was in effect, blacks being referred to as "No. 9." It appears that Mr. Schefflin was discharged by the defendants after working for them for a few months.

(C) The following persons have been interviewed by representatives of the Department of Justice and have indicated that the defendant Trump Management Inc. does not always follow objective rental criteria in the renting of apartments, but often makes rental decision based on the subjective impression of the rental agent:

1. Guido Lara: (2650 Ocean Parkway, Brooklyn, New York) Complex: Ocean Terrace Apartments. Mr. Lara advised that only 1% of the tenants at this complex were black. (Interviewed by Special Agents R. Patrick Welch and Robert F. Kaminski).
2. Vikentije Besu: (2727 Ocean Parkway, Brooklyn, New York) Complex: Lincoln Shore

Apartments. At the time Mr. Besu was interviewed by the FBI, there were no black tenants at the Lincoln Shore Apartments. (Interviewed by Special Agents R. Patrick Welch and Robert F. Kaminski).

3. Walter Rohr: (580 Flatbush Avenue, Brooklyn, New York) Complex: Patio Gardens. From visual observation and tenant interviews by Departmental attorney, Elyse S. Goldweber, Patio Gardens is approximately 40% black. (Interviewed by Special Agents Robert A. Scigalski and Jeffrey C. Satchwell).

* * * *

The foregoing constitutes the information presently available to plaintiff to the effect that defendants have engaged in a "pattern or practice" of racial discrimination in housing and have denied equal housing opportunity to a group of persons, such denial raising an issue of "general public importance."

Plaintiff objects to so much of the interrogatories as seeks disclosure of the identities of "informers," on the ground that such information (once the evidence of discrimination has been disclosed) is irrelevant and that disclosure of the identities of informants interferes with the free flow of information to the Attorney General. United States v. Northside Realty Associates, 324 F. Supp. 287, 296 (N.D. Ga. 1971), Wirtz v. Continental Finance and Loan Co., 326 F. 2d 561 (5th Cir. 1964). Except insofar as

disclosure has been made herein, plaintiff further objects to so much of these interrogatories as seeks to inquire into what action plaintiff took to verify the complaint, on the grounds that:

1. The Attorney General's determination that reasonable cause exists to bring the action is not judicially reviewable; United States v. Northside Realty Associates, 474 F. 2d 1164, 1168 (5th Cir. 1973); United States v. Bob Lawrence Realty, 474 F. 2d 115, 125 (5th Cir. 1973).

2. This Court has dismissed defendants' spurious counterclaim, which alleged in substance that the action was brought without cause.

A F F I D A V I T

CITY OF WASHINGTON)
) SS
DISTRICT OF COLUMBIA)

I, Elyse S. Goldweber, being duly sworn, deposes and says:

1. I am an attorney in the Housing Section, Civil Rights Division, United States Department of Justice, and one of the counsel for plaintiff in United States v. Fred C. Trump, et al., Civil Action No. 73 C 1529.

2. I am informed of the facts of this case and I have prepared and signed Plaintiff's Answers to Defendants' First Interrogatories.

3. Those answers are true and correct to the best of my information, knowledge and belief.

Elyse S. Goldweber
ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530

Subscribed and sworn
to before me this 28th
day of February, 1974.

Yvonne Kee
NOTARY PUBLIC

My commission expires:

CERTIFICATE OF SERVICE

I hereby certify that on February 28, 1974, copies of the foregoing Plaintiff's Answers and Objections to Defendants' First Interrogatories were placed in the United States first-class mail, postage prepaid, addressed to:

Roy M. Cohn, Esq.
Jeffrey A. Shuman, Esq.
39 East 68th Street
New York, New York 10021

Elyse S. Goldweber
ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530

JDP:HAB:ec
F. #730959

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA,

Plaintiff,

- against -

FRED C. TRUMP, DONALD TRUMP and
TRUMP MANAGEMENT, INC.,

Defendants.

NOTICE TO TAKE
DEPOSITION UPON
ORAL EXAMINATION

Civil Action
No. 73 C 1529

----- X


S I R S :

PLEASE TAKE NOTICE that plaintiff UNITED STATES OF AMERICA will take the deposition of defendant TRUMP MANAGEMENT, INC. as an adverse party upon oral examination, by the officers, agents and employees and at the dates and times set forth in the Appendix hereto, at the office of the United States Attorney, 225 Cadman Plaza East, Fifth Floor, in the Borough of Brooklyn, City of New York, pursuant to the Federal Rules of Civil Procedure, before a Notary Public or before some other officer authorized by law to take depositions. The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

Dated: Brooklyn, New York
March 19, 1974

Yours, etc.

EDWARD JOHN BOYD V
United States Attorney
Eastern District of New York
Attorney for Plaintiff

By: 
HENRY A. BRACHTL
Assistant U. S. Attorney
225 Cadman Plaza East
Brooklyn, New York 11201

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TO:

SAXE, BACON, BOLAN & MANLEY
Attorneys for Defendants
39 East 68th Street
New York, New York 10021

1. Fred C. Trump
Chairman, Trump Management Inc.
March 22, 1974 2:15 p.m.
2. Donald Trump
President, Trump Management Inc.
March 22, 1974 10 a.m.
3. Mr. Stuart Hyman
Controller Trump Management Inc.
March 25, 1974 10 a.m.
4. Ms. Sophie Friedwald
Office Manager, Trump Management Inc.
March 25, 1974 2 p.m.
5. Ms. Marrazzo
Resident Manager: 3901 Nostrand Avenue, Brooklyn
April 18, 1974 10 a.m.
6. Ken Fici
Superintendent: Fontainebleau Apartments,
8855 Bay Parkway, Brooklyn
April 18, 1974 2 p.m.
7. Mr. Levy
Rental agent: Beachhaven Apartments,
Sheepshead Bay, Brooklyn
April 18, 1974 4 p.m.
8. Mr. Abe Rosenbery
Rental Agent: Beachhaven Apartments,
Sheepshead Bay, Brooklyn
April 19, 1974 10 a.m.
9. Paul Ziselman
Rental agent: Beachhaven Apartments,
Sheepshead Bay, Brooklyn
April 19, 1974 2 p.m.
10. Mr. Limani
Superintendent: Lawrence Gardens, Brooklyn
April 19, 1974 4 p.m.
11. Mr. Lou Sarnell
Rental agent: Shorehaven Apartments, Brooklyn
April 22, 1974 10 a.m.
12. Mr. Zeller
Superintendent: Highlander Hall, Brooklyn
April 22, 1974 2 p.m.
13. Rene Canon
Superintendent: Westminster Apartments, Brooklyn
April 22, 1974 4 p.m.

A P P E N D I X

JDP:HAB:eh
F. #730959

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA, :
 :
 Plaintiff, :
 :
 - against - :
 :
 FRED C. TRUMP, DONALD TRUMP :
 and TRUMP MANAGEMENT, INC., :
 :
 Defendants. :
----- X

NOTICE TO TAKE
DEPOSITION UPON
ORAL EXAMINATION
Civil Action
No. 73 C 1529

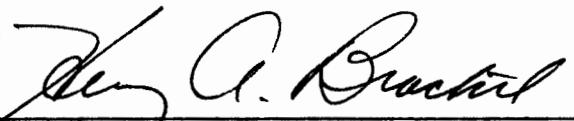
S I R S :

PLEASE TAKE NOTICE that at 2:15 p.m. on the 22nd day of March, 1974, at the Office of the United States Attorney, 225 Cadman Plaza East, Fifth Floor, in the Borough of Brooklyn, City of New York, plaintiff UNITED STATES OF AMERICA will take the deposition of FRED C. TRUMP as an adverse party upon oral examination, pursuant to the Federal Rules of Civil Procedure, before a Notary Public or before some other officer authorized by law to take depositions. The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

Dated: Brooklyn, New York
March 19, 1974

Yours, etc.,

EDWARD JOHN BOYD V
United States Attorney
Eastern District of New York
Attorney for Plaintiff

By: 
HENRY A. BRACHTL
Assistant U. S. Attorney
225 Cadman Plaza East
Brooklyn, New York 11201

TO:
SAXE, BACON, BOLAN & MANLEY, ESQS.
Attorneys for Defendants
39 East 68th Street
New York, New York 10021

25

JDP:HAB:eh
F. #730959

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D. N.Y.

MAR 19 1974

----- U.S. DISTRICT COURT E.D. N.Y. -----
UNITED STATES OF AMERICA, ★

Plaintiff,

- against -

FRED C. TRUMP, DONALD TRUMP
and TRUMP MANAGEMENT, INC.,

Defendants.

TIME A.M. :
P.M. :

NOTICE TO TAKE
DEPOSITION UPON
ORAL EXAMINATION

Civil Action
No. 73 C 1529

----- X

S I R S :

PLEASE TAKE NOTICE that at 10:00 a.m. on the 22nd day of March, 1974, at the Office of the United States Attorney, 225 Cadman Plaza East, Fifth Floor, in the Borough of Brooklyn, City of New York, plaintiff UNITED STATES OF AMERICA will take the deposition of DONALD TRUMP as an adverse party upon oral examination, pursuant to the Federal Rules of Civil Procedure, before a Notary Public or before some other officer authorized by law to take depositions. The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

Dated: Brooklyn, New York
March 19, 1974

Yours, etc.,

EDWARD JOHN BOYD V
United States Attorney
Eastern District of New York
Attorney for Plaintiff

By: *Henry A. Brachtel*

HENRY A. BRACHTL
Assistant U. S. Attorney
225 Cadman Plaza East
Brooklyn, New York 11201

TO:
SAXE, BACON, BOLAN & MANLEY, ESQS.
Attorneys for Defendants
39 East 68th Street
New York, New York 10021

~~_____~~
26

JDP:HAB:ec
P. #730959

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
S. DISTRICT COURT E.D. N.Y.

----- ★ X APP 2 1974 ★

UNITED STATES OF AMERICA,

Plaintiff,

TIME A.M.
P.M.

STIPULATION

- against -

FRED C. TRUMP, DONALD TRUMP and
TRUMP MANAGEMENT, INC.,

Civil Action
No. 73 C 1529

Defendants.

----- X

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned counsel to the parties that the depositions of defendants to be taken upon oral examination by plaintiff in accordance with notices dated and served March 19, 1974 are, at defendants' request, adjourned to the dates and times set forth in the attached Schedule.

Dated: Brooklyn, New York
March 19, 1974

EDWARD JOHN BOYD V
United States Attorney
Eastern District of New York
Attorney for Plaintiff

By:

HAB H. A. Brachtel
HENRY A. BRACHTL
Assistant U. S. Attorney

SO ORDERED:

Dated: Brooklyn, New York

April 1, 1974
Edward R. Neales
U.S.D.J.

SAXE, BACON, BOLAN & MANLEY
Attorneys for Defendants

By:

[Signature]
A member of the firm

1. Donald Trump, individually and as President, Trump Management Inc.
March 27, 1974 9 a.m. *Taken*
2. Fred C. Trump, individually and as Chairman, Trump Management Inc.
March 27, 1974 2:15 p.m. *Taken*
3. Mr. Stuart Hyman
Controller, Trump Management Inc.
April 18, 1974 10 a.m. *Taken*
4. Ms. Sophie Friedwald
Office Manager, Trump Management Inc.
April 18, 1974 2 p.m. *Taken*
5. Ms. Marrasso
Resident Manager: 3901 Nostrand Avenue, Brooklyn
April 18, 1974 4 p.m.
6. Ken Fici
Superintendent: Fontainebleau Apartments,
8855 Bay Parkway, Brooklyn
April 19, 1974 10 a.m.
7. Mr. Levy
Rental agent: Beachhaven Apartments,
Sheepshead Bay, Brooklyn
April 19, 1974 2 p.m.
8. Mr. Abe Rosenberg
Rental Agent: Beachhaven Apartments,
Sheepshead Bay, Brooklyn
April 19, 1974 4 p.m.
9. Paul Ziselman
Rental agent: Beachhaven Apartments,
Sheepshead Bay, Brooklyn
April 22, 1974 10 a.m.
10. Mr. Limani
Superintendent: Lawrence Gardens, Brooklyn
April 22, 1974 2 p.m.
11. Mr. Lou Sarnell
Rental agent: Shorehaven Apartments, Brooklyn
April 22, 1974 4 p.m.
12. Mr. Zeller
Superintendent: Highlander Hall, Brooklyn
Adjourned without date
13. Rene Canon
Superintendent: Westminster Apartments, Brooklyn
Adjourned without date

S C H E D U L E

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF

NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D. N.Y.

APR 23 1974

TIME A.M.
P.M.

CIVIL ACTION NO. 73 C 1529

UNITED STATES OF AMERICA,

Plaintiff,

v.

FRED C. TRUMP, et. al.,

Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFF'S

MOTION FOR SANCTIONS

HENRY A. BRACHTL
Assistant United States
Attorney
Department of Justice
Brooklyn, New York 11201

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530

ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530

29

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
NEW YORK

CIVIL ACTION NO. 73 C 1529

UNITED STATES OF AMERICA,
Plaintiff,

v.

FRED C. TRUMP, et. al.,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFF'S
MOTION FOR SANCTIONS

HENRY A. BRACHTL
Assistant United States
Attorney
Department of Justice
Brooklyn, New York 11201

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530

ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530

INTRODUCTORY STATEMENT

The United States has moved this Court for appropriate sanctions pursuant to Rule 37 of the Federal Rules of Civil Procedure because of defendants' continual, unexcused, and almost total failure to make discovery and to comply with the orders of this Court. Defendants have wholly ignored two deadlines - one set by the Federal Rules, a later very generous one agreed to by the parties and ordered by the Court - to answer interrogatories, and have filed neither objections nor any protective motions with respect to them. In spite of continuous efforts by plaintiff to schedule discovery as to accommodate the convenience of defendants' principal counsel, Roy Cohn, Esq., only one abbreviated deposition has been taken to date. Moreover, Donald Trump, president of defendant, disclosed in that deposition that defendants have had the practice of destroying company records to save space, and that he was unaware of any orders to his employees to discontinue this practice since the litigation began or since plaintiff's interrogatories were served on him. Accordingly, plaintiff has been almost totally frustrated in its attempts to conduct this litigation expeditiously in compliance with 42 U.S.C. 3614, and, half a year after the complaint was filed, the suit has gone nowhere.

Defendants' noncompliance as to plaintiff's interrogatories has included, among other things, blithe disregard of this Court's very generous Order of February 5, 1974 granting defendants an unusually long time to answer, and we believe that meaningful sanctions would be appropriate. Nevertheless, courts abhor forfeitures, and we do not press the Court to preclude defendants from defending in the merits without one last chance. Accordingly, we ask the Court to enter an Order barring defendants from asserting any defense with respect to matters which are the subject of unanswered interrogatories unless defendants come into compliance as to all of their discovery obligations immediately.

HISTORY OF THE CASE */

The Complaint in this action was filed on October 15, 1973. On December 12, 1973, after no fewer than three stipulated extensions, defendants filed motions to dismiss and, in the alternative, for a more definite statement. They further asserted a patently frivolous counterclaim against the United States seeking damages in the amount of 100 million dollars on the basis of claims explicitly barred by the Federal Tort Claims Act. On February 5, 1974, defendants' motions were denied and their counterclaim was dismissed.

On November 7, 1973, plaintiff served on defendants, by mail, a set of interrogatories. These interrogatories were neither answered nor objected to within the thirty days prescribed in the Federal Rules

*/ Elyse Goldweber, one of the attorneys for plaintiff, has sworn in the attached affidavit that the history that follows is true.

of Civil Procedure. Instead, they were ignored. On January 21, 1974, after having sought informal compliance pursuant to Local Rule 9(f), the United States served a motion to compel defendants to answer interrogatories. On February 5, 1974, this Court, after disposing of defendants' motions and counterclaims, entered an Order implementing an agreement of the parties as to when various interrogatories were to be propounded and answered. Defendants were directed to propound initial interrogatories to plaintiff on or before February 8, 1974. Plaintiff was directed to answer the interrogatories in 20 days. Finally, defendants were directed to respond to plaintiff's original interrogatories, filed four and a half months earlier on or before April 1, 1974. Plaintiff was reluctant to agree to this unusually generous time frame for defendants to respond to interrogatories which they had previously ignored, but consented nevertheless in the hope that the case would then proceed expeditiously. Unfortunately, this did not happen.

Plaintiff complied fully with its obligations under the foregoing Order and, on February 28, 1974, served detailed answers to defendants' interrogatories which disclosed alleged discrimination at seven of defendants' buildings, */ as well as a number of extrajudicial admissions of a discriminatory policy. Such proof easily meets the standards for relief in cases under 42 U.S.C. 3613. See,

*/ At his deposition, Donald Trump testified that defendants did not own the part of the complex involved in one of the incidents.

e.g. United States v. Pelzer Realty Co., 484 F. 2d 438 (5th Cir. 1973), cert. den. ____ U.S. ____ (April 15, 1974) (refusal to sell to two blacks is a pattern and practice); United States v. Reddoch, P.H. E.O.H. Rptr. Para. 13,569 (Conclusions of Law Nos. 11, 13-15) (S.D. Ala. 1972), aff'd per curiam 467 F. 2d 897 (5th Cir. 1972) (discriminatory instructions and admissions are a pattern and practice); United States v. Gilman, 341 F. Supp. 891 (S.D. N.Y. 1972) (pattern and practice found as to large operator of apartments based on two incidents at a single building). April 1 passed, however, with not a word from defendants in response to plaintiff's interrogatories.

On April 11, 1974, pursuant to Local Rule 9(f), Elyse S. Goldweber, an attorney for the United States, telephoned Jeffrey Shuman, an attorney for the defendants to discuss defendants' failure to respond to plaintiff's interrogatories. Mr. Shuman informed her that the defendants were not in the process of answering the interrogatories and were unsure of when they would begin answering them. He stated that they might possibly do so some time in May, 1974. As of the date of this motion, plaintiff has not received any response to its interrogatories, and no motion for a protective order has been filed.

Plaintiff's difficulty in securing answers to its interrogatories has been compounded by its inability to bring the defendants, their agents, and their counsel, into any room for any length of time sufficient to take appropriate depositions. After extensive efforts

by plaintiff to accommodate counsel for defendants, who first agreed on and then cancelled depositions which were scheduled for March 22 and 25, 1974, an agreement was reached to depose both Donald and Fred Trump, the two named defendants, on March 28 and 29. Two Departmental attorneys travelled to New York on March 27, but learned on arrival that Mr. Cohn, the lead counsel for defendants, would be available only for about two hours on the morning of March 28th and for about two hours on the afternoon of the 29th. One abbreviated deposition was taken during that time. */ An attempt was then made, and a stipulation reached, scheduling additional depositions for April 17 through 22, including that of defendant Fred Trump, but counsel for defendants advised Ms. Goldweber on April 15, on 48 hours notice that these depositions would have to be cancelled too. After being advised that plaintiff would apply for sanctions, **/ Mr. Cohn offered to hold depositions on April 23 and 24. While Mr. Schwelb had to reschedule a trip to Texas, plaintiff immediately agreed to these revised dates, subscribing to the ditty that "hope beats eternal in the human breast." Within hours of the new agreement,

*/ Plaintiff's counsel suggested that progress could be made if only junior counsel, Ms. Goldweber and Mr. Shuman, participated in depositions while Mr. Cohn was unavailable. Even though the two juniors were classmates, Mr. Cohn declined this offer, but generously advised plaintiff's senior counsel, Mr. Schwelb, that he could do as he chose.

**/ See Attachment "A."

however, Mr. Cohn cancelled the depositions scheduled for April 24, citing imperative business which would take him to Europe, back to New York, and to St. Louis in less than a week. This left him only one day for a case dealing with rights to which Congress has accorded "the highest national priority." Trafficante v. Metropolitan Life Ins. Co., 409 U.S. 205, 209 (1972).

Plaintiff also proposes to conduct discovery pursuant to Rule 34, F.R.Civ.P., and hopes soon to inspect and copy pertinent records. Mr. Donald Trump and his attorney were fulsome in their assurances that this would be permitted. Since defendants have not responded to interrogatories seeking a description of their records, and since Donald Trump disclaimed detailed knowledge of these records during his deposition, */ plaintiff has been hampered in serving a proper request pursuant to Rule 34.

*/ Mr. Trump described certain employees, including Stuart Hyman, as being the persons with this and other pertinent information. Mr. Hyman is among those who were scheduled to be deposed on April 18 pursuant to stipulation, but whose depositions were cancelled on short notice by counsel for defendants.

ARGUMENT

As related in our introduction, Congress has decreed that this kind of case be "in every way expedited." 42 U.S.C. 3614. In view of the national priority given to equal housing opportunity, Trafficante, supra, these cases, like employment discrimination suits, are "pregnant with an urgency" which precludes the kinds of delays to which defendants have been subjecting this litigation. United States v. Ironworkers Local No. 1, 438 F. 2d 679, 681-82 (7th Cir. 1971), cert. den. 404 U.S. 830 (1971); see also United States v. Gustin Bacon, 426 F. 2d 539, 543 (10th Cir. 1970); cert. den. 400 U.S. 832 (1970). The right to equal opportunity is a "warrant for the here and now," and not for some distant hereafter. Watson v. Memphis, 373 U.S. 526 (1963). While we appreciate that any litigant is entitled to counsel of his own choice, and while the United States is prepared to make any reasonable accommodation to counsel's schedule consistent with the statutory directive of expedition, it is obvious that, on defendants' current schedule, we will be lucky to have a case of this magnitude resolved by 1984. It is particularly in cases like this one that the procedures outlined in the Federal Rules must be followed, so that each party can enjoy its full procedural and substantive rights in orderly fashion.

Accordingly, in the light of the record of consistent, unexcused noncompliance, the sanctions prescribed in Rule 37 are particularly appropriate.

Rule 37(d) of the Federal Rules of Civil Procedure provides in pertinent part that

if a party . . . fails to serve answers or objections to interrogatories submitted under Rule 33, after proper service . . . the court . . . may make such orders in regard to the failure as are just

The Rule cites as examples any action authorized under paragraphs "A", "B" and "C" of Rule 37(b)(2), which include

(A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(b) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence;

(C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party.

These sanctions are authorized even without a pre-existing Order compelling discovery, where, as here, a party has inexcusably failed to answer or object to properly served interrogatories and where no protective order has been sought. Moreover, "the failure to act described in this subdivision may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by Rule 26(c)." See Rule 37(d). While we do not see how defendants' repeated noncompliance, at least to the interrogatories, can be described as other than willful, the 1970 amendment to Rule 37(d) eliminated the requirement of "willfulness" as a condition precedent to the imposition of sanctions for failure to answer interrogatories. Presently, the only relevance of "willfulness" is "in determining the severity of the sanction chosen by the Court." 4A Moore's Federal Practice, 2nd Ed., para. 37.05, p. 37-95. In deciding the issue of severity, the Court might consider that these sanctions would be applicable even if defendants had not ignored this Court's Order of February 5, and must be even more appropriate since they have ignored it. Cf. Rule 37(b).

Sanctions under Rule 37(d), in cases involving inexcusable failure to answer interrogatories, have included dismissal and entry of default judgment. Weiss Noodle Co. v. Aprile, 272 F. 2d 923 (6th Cir. 1959) (unconditional default for failure to answer interrogatories); Brookdale Mill, Inc. v. Rowley, 218 F. 2d 728 (6th Cir. 1954) (unconditional dismissal for failure to answer interrogatories); Sivelle v. Maloof, 373 F. 2d 520 (1st Cir. 1967) (unconditional default for failure to answer interrogatories); Hesse v. Brunner, 172 F. Supp. 284 (S.D. N.Y. 1959) (conditional default judgment for failure to answer interrogatories); See 4A Moore's Federal Practice, 2nd Ed., para. 37.05, p. 37-102 and cases cited therein. Some courts have imposed as the proper sanction a prohibition against the introduction of certain evidence relating to the issues as to which the opponent has failed to make discovery, Life Music, Inc. v. Broadcast Music, Inc., 41 F.R.D. 16 (S.D. N.Y. 1966); Bernat v. Pennsylvania RR, 14 F.R.D. 465 (E.D. Pa. 1953), and have designated that certain facts, with respect to such issues, be taken as established. McMullen v. Travelers Ins. Co., 278 F. 2d 834 (9th Cir. 1960); Life Music, Inc. v. Broadcast Music, Inc., 41 F.R.D. 16 (S.D. N.Y. 1966).

It appears from the foregoing that litigants have forfeited unconditionally their rights to litigate on the merits for non-compliance no more sustained than that of defendants in this case. Accordingly, we think the Court has the authority to strike defendants' answer and enter default judgment without any further opportunity for defendants to respond. Nevertheless, in the interest of fair play, plaintiff has no objection to defendants having another brief opportunity to come into compliance before more draconian measures striking their defenses are made absolute. We believe that if the interrogatories are answered immediately, and depositions taken without further delay, the case can still be litigated on the merits.

While plaintiff does not presently seek a forfeiture, but rather an ironclad assurance that defendants will make discovery immediately, we believe that the availability under the Rules of the sterner unconditional remedy, suggests that further unilateral disregard of the Rules by defendants should be dealt with promptly and finally. Defendants should be required to make full and complete discovery now; failing that, they should be held to be in default.

We wish to observe, in connection with defendants' obligations now, that their failure to make timely objection, or indeed any objection, to plaintiff's interrogatories waived their right to do so even if any objection were substantively well taken, see Rule 37(d), quoted at p. 9 , supra. As the court said in Davis v. Romney, 53 F.R.D. 247, 248 (E.D. Pa. 1971), in which the defaulting party was far more diligent than the Trumps have been in this case,

The passing of the forty-five day period without any objection being made to the questions set forth in the interrogatories clearly must be considered a waiver by the defendants of any objections they might have had. Cephus v. Busch, 47 F.R.D. 371 (E.D. Pa. 1969). Regardless of how outrageous or how embarrassing the questions may be, the defendants have long since lost their opportunity to object to the questions. If they feel that the questions are unfair they have no one to blame but themselves for being required to answer them now. If discovery rules are to have "any effect or meaning, the failure to serve such objections within the time prescribed * * * should be considered a waiver of such objections." Bohlin v. Brass Rail, Inc., 20 F.R.D. 224 (S.D. N.Y. 1957). The plaintiffs' patience in agreeing to wait for answers beyond the forty-five day period cannot be considered as a stay or an extension of the time for filing objections. Sturdevant v. Sears, Roebuck and Co., 32 F.R.D. 426 (W.D. Mo. 1963).

CONCLUSION

For the foregoing reasons, plaintiff prays that its motion for sanctions be granted, with the defendants being provided the opportunity described in the motion to come into compliance by


- (1) fully answering all interrogatories;
- (2) making themselves and their agents promptly available for deposition; and
- (3) providing the Court with an assurance of full future cooperation.

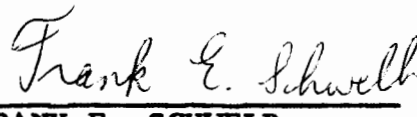
In the event that defendants fail to take these steps, we ask that the answer be stricken and the defendants be precluded from contesting the allegations of discrimination.

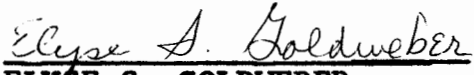
We further suggest that, if the defendants come into prompt compliance as to the immediate controversy, the Court set a schedule for future discovery which both permits each party to prepare fully and ensures compliance with the expedition provisions

of 42 U.S.C. 3614. The schedule will then be clear, and any attorney on either side */ who is unable to meet this schedule will then be required to withdraw or delegate accordingly.

Respectfully Submitted


HENRY A. BRACHTL
Assistant United States
Attorney
Department of Justice
Brooklyn, New York 11201


FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530


ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530

*/ Mr. Cohn is not alone in being busy. Mr. Schwelb is in charge of the Housing Section's entire litigation program and active in many of the cases. 67 fair housing suits or amicus participations were initiated by the Housing Section in 1973 alone, and earlier and later cases remain open.

ATTACHMENT A

JDP:HAB:cc
F. #730959

April 16, 1974

BY HAND

Saxe, Bacon, Bolan & Manley, Esqs.
39 East 68th Street
New York, New York 10021

Attn: Roy M. Cohn, Esq.

Re: United States v. Fred C. Trump, et al.
U.S.D.C., E.D.N.Y.
Civil Action No. 73 C 1529

Dear Sirs:

We are sorry to learn from your associate Jeffrey Schuman, Esq. that you will not honor your commitment to produce previously designated officers, agents and employees of defendants in the above action for depositions on April 17, 18, 19 and 22, 1974, notwithstanding your written stipulation, by Mr. Schuman, so ordered by the Court on April 1, 1974, and the oral representation of Mr. Cohn of your firm to Government counsel on March 29, 1974. To avoid obviously futile expenditure, we have cancelled our request for a stenographer to record the depositions on those dates.

We regret, too, that defendant has chosen to violate the Court's order of February 5, 1974 which ordered defendants to answer plaintiff's interrogatories on or before April 1, 1974.

We will, of course, apply for appropriate sanctions against defendants.

Very truly yours,

EDWARD JOHN BOYD V
United States Attorney

By:


HENRY A. BRACHTL

Assistant U. S. Attorney

cc: The Honorable Edward R. Neaher
United States District Judge
225 Cadman Plaza East
Brooklyn, New York 11201

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF

NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ APR 23 1974 ★

TIME A.M. 10:00
P.M.

CIVIL ACTION
NO. 73 C 1529

MOTION AND NOTICE OF
MOTION FOR SANCTIONS

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
FRED C. TRUMP, et. al.,)
)
Defendants.)
)
)
)
)
)

SIRS:

PLEASE TAKE NOTICE that plaintiff, United States of America, will move this Court, before the Honorable Edward R. Neaher, District Judge at the United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York in Courtroom 9, on the 3rd day of May, 1974 at 10:00 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard, for an Order striking the Answer herein and precluding defendants from contesting plaintiff's contention that defendants have engaged in a pattern and practice of discrimination within the meaning of 42 U.S.C. 3613, and have denied equal housing opportunity to groups of persons, which denial has raised an issue of general public importance, also within the meaning of 42 U.S.C. 3613, unless defendants

- (1) File complete and responsive answers to all interrogatories heretofore propounded to them by plaintiff within ten days of the entry of this Court's Order; and

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- (2) Provide and adhere to a firm schedule of availability for depositions of the defendants and their agents heretofore noticed for deposition; and
- (3) File with the Court an assurance that they will proceed with and respond to discovery in accordance with the Federal Rules of Civil Procedure and any Orders which may be entered by this Court in relation thereto.

This motion is made pursuant to Rule 37 of the Federal Rules of Civil Procedure; and the grounds therefor are set forth with particularity in plaintiff's supporting memorandum and in the attached affidavit of Elyse Goldweber. Plaintiff further prays for such other and further relief that this Court deems just and proper.

Dated: April 19th, 1974
Brooklyn, New York

Yours, etc.

To: Roy M. Cohn, Esq.
Saxe, Bacon, Bolan
and Manley
39 East 68th Street
New York, New York 10021

Frank E. Schwelb

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Henry A. Brachtel

HENRY A. BRACHTL
Assistant United States
Attorney
Department of Justice
Brooklyn, New York 11201

Elyse S. Goldweber

ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

AFFIDAVIT

CITY OF WASHINGTON)
) ss
DISTRICT OF COLUMBIA)

Elyse S. Goldweber, being duly sworn, deposes and says:

1. I am an attorney in the Housing Section, Civil Rights Division, United States Department of Justice, and one of the counsel for plaintiff in United States v. Fred C. Trump, et al., Civil Action No. 73-C-1529.

2. I have prepared the factual statement in plaintiff's Memorandum for Sanctions and have personal knowledge of the facts contained therein. It is true to the best of my knowledge and belief.

Elyse S. Goldweber
ELYSE S. GOLDWEBER

Subscribed and sworn to
before me this 18th day
of April 1974.

Gronne Lee
NOTARY PUBLIC

My Commission expires:

FILED
IN CLERK'S OFFICE
DISTRICT COURT E.D. N.Y.

IN THE UNITED STATES DISTRICT COURT OF THE
EASTERN DISTRICT OF NEW YORK ★ **MAY 8 1974**

TIME A.M.
P.M.

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 FRED C. TRUMP, et al.,)
)
 Defendants.)
 _____)

CIVIL ACTION NO. 73 CIV 1529

PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS

Plaintiff hereby requests, pursuant to Rule 34 of the Federal Rules of Civil Procedure, that defendants produce and permit plaintiff to inspect and copy the documents and records listed and described in Attachment A to this request.

It is requested that the aforesaid production shall commence on the 12th day of June, 1974, at 10:00 a.m. at the main office of defendant Trump Management Inc., 2611 West Second Street, Brooklyn, New York, and that the aforesaid production shall continue as such other offices of Trump Management Inc. as necessary to inspect and copy the requested documents and records, and that the documents and records shall remain available until such inspection and copying can reasonably be completed.

Inspection, copying and photographing will be performed by or under the supervision of an attorney of the United States Department of Justice.

EDWARD JOHN BOYD V
United States Attorney
Eastern District of New York
By: *Henry A. Brachtl*
HENRY A. BRACHTL
Assistant U.S. Attorney

Respectfully submitted,
Elyse S. Goldweber
FRANK E. SCHWELB
ELYSE S. GOLDWEBER
Attorneys, Housing Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530

ATTACHMENT A

LIST OF DOCUMENTS AND RECORDS SOUGHT TO BE
PRODUCED FOR INSPECTION AND COPYING

All deeds, contracts, leases, application forms, vacancy lists, correspondence, memoranda, ledger sheets, accounts, cancelled checks, W-2 forms, journals, receipts, waiting lists, and other written records, books, documents, and writings in the possession, custody, or control of the defendant, or any firm, association, company, corporation, or other business entity of said defendant Trump Management Inc. */ which contain, constitute, or in any way reflect any of the following information since January 1, 1968:

1. The names and addresses of all apartment buildings, residential lots and all other dwellings **/ owned and/or managed by or through said defendant for any period of time since January 1, 1968, in New York and elsewhere.

2. A. The address and apartment number of each dwelling available for rental by or through said defendant for any period of time since January 1, 1968;

B. The size and rental range of all dwellings available for rental for any period of time since January 1, 1968;

*/ For the purposes of convenience, the word "defendant" as used in the remainder of this Request, shall include defendant Trump Management Inc. or any firm, association, company, corporation, or other business entity of said defendant, or any agent, or employee of said defendant, and shall include Fred Trump and Donald Trump.

**/ For purposes of convenience the word "dwelling" as used in the remainder of this Request shall include any apartment, house, building lot, or any other dwelling as that term is defined in 42 U.S.C. 3602(b).

C. The dates each apartment was available for rental since January 1, 1968.

3. A. The name, address, race, and date of inquiry of each prospective tenant who has inquired regarding the rental of a dwelling;

B. The preferences expressed by the prospective tenant regarding a particular apartment building, dwelling size, date of occupancy, and/or rental rate;

C. The information provided by each prospective tenant in satisfaction of the qualifications and criteria to be met by prospective tenants;

D. The results of any credit, employment, prior-landlord, or personal background checks or verifications made in deciding whether to accept or reject each prospective tenant;

E. The name of the person with whom the prospective tenant dealt;

F. The name of the person whom processed the application of the prospective tenant;

G. The address and apartment number of each dwelling shown to the prospective tenant;

H. Whether the prospective tenant submitted an application to rent a dwelling, and if not, why not;

I. The name, address, race, and dates of occupancy of tenants and the forwarding addresses of former tenants;

J. If the prospective tenant was not accepted as a tenant, the reason for his rejection; and

K. If there were no vacancies at the time of the prospective tenant's application any memoranda which would reflect whether the applicant's name was put on a waiting list.

4. A. The qualifications or criteria taken into account in deciding whether to accept or reject applicants;

B. The credit, employment, prior-landlord, or personal background checks or verifications made in deciding whether to accept or reject applicants;

C. The policy or practice of the defendant regarding the rental of dwellings to black persons;

D. The instructions given to the defendant's employees or agents regarding the rental of dwellings to black persons; and

E. The instructions given to any real estate company, rental agency, or other such company engaged to refer prospective applicants to the defendant regarding the rental of dwellings to black persons.

5. All written instructions, memoranda of oral instructions, correspondence, or other written records or documents to agents or employees of said defendant or to other persons, organizations, or agencies concerning the procedures and standards to be followed by such persons with respect to

the rental of dwellings to any person, including black persons, and the treatment to be accorded prospective tenants of dwellings, including black prospective tenants of dwellings since January 1, 1968.

6. All documents or papers containing any reference to race between or concerning said defendant or its previously referenced tenants since January 1, 1968.

7. All correspondence, agreements and other documents or papers, or communications which make reference to the Fair Housing Act, or to discrimination or nondiscrimination in rentals.

8. All advertisements placed by said defendant in newspapers, magazines, trade publications, brochures, radio, television, and other publications or media which advertised the availability of apartments for rent by or through said defendant since January 1, 1968.

9. All records, payroll reports, contracts, W-2 forms, cancelled checks and other documents which contain the name, address, race, position and date of employment of any rental agents or other employee employed by the defendants at any time since January 1, 1968.

10. Copies of all EEO-1 reports furnished to the Equal Employment Opportunity Commission by the defendant, and of all other documents reflecting the race or national origin of defendant's employees.

11. All correspondence between defendants and the New York City Commission on Human Rights or with any other agency with civil rights responsibilities, other than the U.S. Department of Justice.


12. All correspondence, documents, memoranda and papers, formal and informal, reflecting or alleging racial discrimination in housing by defendants or any of them, such documents to be produced irrespective of the merit or lack of merit of the allegation and irrespective of the formality or informality of the complaint.

CERTIFICATE OF SERVICE

I, Elyse S. Goldweber, an attorney for the plaintiff, hereby certify that I have served a copy of the foregoing Request for Production of Documents on the defendants by mailing a copy, postage prepaid, to their attorney at the following address:

Roy M. Cohn, Esq.
Saxe, Bacon, Bolan and Manley
39 East 68th Street
New York, New York 10021

This the 6th day of May, 1974.



ELYSE S. GOLDWEBER
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530

JDP:HAB:sm
F.#730959

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.
★ MAY 30 1974 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

TIME A.M.....
P.M.....

Plaintiff,

NOTICE TO TAKE
DEPOSITION UPON
ORAL EXAMINATION

-against-

FRED C. TRUMP, DONALD TRUMP and
TRUMP MANAGEMENT,

Civil Action
No. 73 C 1529

Defendants.

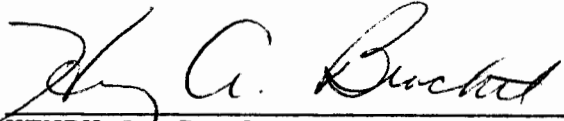
S I R S:

PLEASE TAKE NOTICE that plaintiff UNITED STATES OF AMERICA will take the deposition of defendant TRUMP MANAGEMENT, INC. as an adverse party upon oral examination, by the officers, agents and employees and at the dates and times set forth in the Appendix hereto, at the office of the United States Attorney, 225 Cadman Plaza East, Fifth Floor, in the Borough of Brooklyn, City of New York, pursuant to the Federal Rules of Civil Procedure, before a Notary Public or before some other officer authorized by law to take depositions. The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

Dated: Brooklyn, New York
May 30, 1974

Yours, etc.,

DAVID G. TRAGER
United States Attorney
Eastern District of New York
Attorney for Plaintiff

By: 

HENRY A. BRACHTL
Assistant U. S. Attorney
225 Cadman Plaza East
Brooklyn, New York

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TO:

SAXE, BACON, BOLAN & MANLEY
Attorneys for Defendants
39 East 68th Street
New York, New York 10021

-
1. Ms. Marrazzo
Resident Manager
3901 Nostrand Avenue
Brooklyn, New York
June 18, 1974 - 10:00 a.m.
 2. Mr. Ken Fici
Superintendent
Fountainbleau Apartments
8555 Bay Parkway
Brooklyn, New York
June 18, 1974 - 2:00 p.m.
 3. Mr. Levy
Rental Agent
Beachaven Apartments
Sheepshead Bay
Brooklyn, New York
June 18, 1974 - 4:00 p.m.
 4. Mr. Paul Ziselman
Rental Agent
Beachaven Apartments
Sheepshead Bay
Brooklyn, New York
June 19, 1974 - 10:00 a.m.
 5. Mr. Limani
Superintendent
Lawrence Gardens
Brooklyn, New York
June 19, 1974 - 2:00 p.m.
 6. Mr. Lou Sarnell
Rental Agent
Shorehaven Apartments
Brooklyn, New York
June 19, 1974 - 4:00 p.m.
 7. Mr. Zeller
Superintendent
Highlander Hall
Brooklyn, New York
June 20, 1974 - 10:00 a.m.
 8. Rene Canon
Superintendent
Westminster Apartments
Brooklyn, New York
June 20, 1974 - 2:00 p.m.
 9. Mr. Abe Rosenberg
Rental Agent
Beachaven Apartments
Sheepshead Bay
Brooklyn, New York
June 20, 1974 - 4:00 p.m.

A P P E N D I X

FILED
IN CLERK'S OFFICE
FOR DISTRICT COURT E.D. N.Y.

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

★ JUN 5 1974 ★

TIME A.M.....
P.M.....

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 FRED C. TRUMP, DONALD TRUMP)
 and TRUMP MANAGEMENT INC.,)
)
 Defendants.)
)
 - - - - -X

CIVIL ACTION No. 73 C 1529

DEFENDANTS' FIRST ANSWER
TO INTERROGATORIES

The defendants, answering the interrogatories propounded by the plaintiff, state as follows:

1. The sole shareholder in Trump Management Inc., hereinafter referred to as "T.M.I.", is Fred C. Trump. He acquired such interest on June 24, 1969.

2. T.M.I. was incorporated in Queens County, New York, on April 22, 1969; Fred C. Trump, 8814 Midland Parkway, Jamaica Estates, New York, is President; Donald Trump, 8814 Midland Parkway, Jamaica Estates, New York, is Vice-President; Matthew J. Tosti, 8620 Avon Street, Jamaica Estates, New York, is Secretary. The duties of each officer are set forth in standard New York corporate printed by-laws.

3. The supervisory roles of Fred C. Trump and Donald Trump were explained in detail in their respective examinations before trial conducted by the plaintiff.

4. Fred C. Trump and Donald Trump own an interest in Starex City, a moderate-income housing development consisting of approximately 6,000 units located in the East New York section of Brooklyn, New York, in a low-income racially integrated neighborhood. The Trumps have no managerial control over this complex.

The renting process has just begun and the apartments have not been rented to date. However, it is expected that an extremely high percentage of the apartments would be rented to blacks.

5. This information has previously been supplied to the Department of Justice by the following communications: a letter to the attention of Thomas F. Drumm, at the Department of Justice in Washington, D.C., from Matthew J. Tosti, dated October 11, 1972, and a subsequent memorandum from Tosti to Miss Elyse S. Goldweber at the Housing Section of the United States Department of Justice, Washington, D.C., dated March 15, 1973.

With regard to 5 O., no records are maintained in connection with the race of employees. However, the remaining information requested is being compiled by Stuart Hyman and will be furnished to the plaintiff.

6. The defendants have never had in effect any policy which discriminated against non-white applicants.

7. Annexed as Exhibit I.

8. Defendants have never had a policy not to employ negroes or members of any racial or ethnic group.

9. No information available.

10. The executed leases and applications of tenants who were accepted are located in the T.M.I. office at 2611 West Second Street, Brooklyn, New York, under the supervision of Stuart Hyman.

11. No information available.

12. The defendants posted the H.U.D. housing poster in all of their rental offices. Defendants have told the respective superintendents orally that T.M.I. absolutely does not allow any discrimination in renting. Detailed responses to this question are contained in the examinations before trial of Fred C. Trump and Donald Trump.

13. This information is being compiled by Stuart Hyman and will be supplied to the plaintiff as soon as possible.

14. This was answered in detail in the examination before trial of Stuart Hyman.

15. No information available.

DATED: New York, New York

May 15, 1974

SAXE, BACON, BOLAN & MANLEY
Attorneys for defendants
Office and Post Office Address:
39 East 68th Street
New York, New York 10021

BLACK and PUERTO RICAN EMPLOYEES

C. Flores	J. Garcon	S. Terry
A. Serapio	P. Taylor	J. Brown
J. Bennett	H. Culbrehda	A. Countil
A. Cambell	H. Rodrigues	L. Cordero
C. Echavarria	J. Williams	F. Lorenzo
J. Maldonado	O. Curtis	D. Alvarez
M. Perez Jr.	M. Adams	A. Hampton
M. Perez Sr.	A. Alphonzo	V. Matos
L. Perez	R. Robinson	M. Matos
W. Martinez	L. Bidal	V. Gregaria
S. Vasquez	A. Andersen	W. Reyes
A. Diaz	H. Solar	Monurle
S. Diaz	R. Garcia	T. Logan
E. Aquino	C. Pradera	A. Clemens
R. Nieves	A. Fuentes	C. Roles
M. Marquez	R. Garcia	E. Iglesia
R. Delgado	V. Rodiguez	E. Mosely
J. Rivera	M. Wilson	Perez
F. Alvarado	R. Joyner	J. Alicea
G. Rosado	G. Lara	H. Dolphin
C. Gouzalez	Salastro	D. Banks
P. Alvelo	Perez	H. Witherspoon
R. Cardona	Kastro	J. Brownhill
J. Nunez	Pablulla	F. Santiago
J. Medina	Y. Augiston	H. Dunlap
M. Tilghman	D. Lugo	A. Green
O. Jenkins	L. Vega	J. Herlero
J Raso	R. Urena	D. Reyes
I. Pedro Matos	J. Grullion	J. Garcia
Jose Luis De Jesus	H. Quel	J. McLean
C. Comrie	R. Munog	L. Hurlston
I. Butler	A. Escalante	J. Sandiego
W. Parma	M. Hunt	W. Spruill
S. Boston	V. Jerome	R. Bullock
A. Magana	N. Nelson	T. Leach
W. Sanders	R. Yocono	R. Condon
A. Clanton	R. Rodrigues	C. Litvak
J. Wyatt	J. Betancourt	J. Rosado

ADDRESS REPLY TO
UNITED STATES ATTORNEY
AND REFER TO
INITIALS AND NUMBER

United States Department of Justice

UNITED STATES ATTORNEY

EASTERN DISTRICT OF NEW YORK
FEDERAL BUILDING
BROOKLYN, N. Y. 11201

JDP:HAB:jdp
F#730959

BY HAND

June 13, 1974

Saxe, Bacon, Bolan & Manley
39 East 68th Street
New York, New York 10021

Attention: Scott Manley, Esq.

Re: United States v. Fred C. Trump, et al.
U.S.D.C., E.D.N.Y.
Civil Action No. 73 C 1529

Dear Sirs:

As you know, Attorneys Donna F. Goldstein and Norman Goldberg of the Civil Rights Division, U.S. Department of Justice, Washington, D.C., and Assistant U.S. Attorney Henry A. Brachtl of this Office with others from our staff, appeared at the offices of defendant Trump Management, Inc., 2611 W. 2nd Street, Brooklyn, New York, at 10:00 A.M. on June 12, 1974, to commence inspection and copying of records required to be produced under the Government's request pursuant to Rule 34, F.R. Civ. P., served upon you as counsel to defendants on May 6, 1974.

At that time, employees of Trump Management, Inc., including Stuart Hyman, Controller, expressed complete surprise at the visit of Government counsel, professed never to have been advised of the appointment, and declined to produce the requested documents for inspection.

No objection to the Government's request for production - either formal or informal - has been previously made by or on behalf of defendants, no application for a protective order has been made, and no notice of intended non-compliance with the request had been given, though minimal professional courtesy would have required as much.

In response to our telephone inquiry to your office for an explanation, we listened later in the day to your letter, read by your secretary, offering to discuss today the breadth of the request for production and proffering the possibility of some production of documents at your office on Friday, June 14, 1974.

ct file

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ JUN 14 1974 ★

TIME A.M.
P.M.

June 13, 1974

We find your proposal to begin negotiations over the breadth of the Government's request for production now - thirty-five days after service of the request, one day after production was to begin and after Government counsel have travelled from Washington, D. C. for the inspection - entirely unacceptable.

We write now in a final effort to secure, without judicial assistance, the Government's right under the Federal Rules of Civil Procedure to inspect and copy the designated records and documents.

We are willing to commence the inspection at 9:00 a.m. tomorrow, Friday, June 14, 1974. The inspection is to proceed in all other respects in accordance with our May 6, 1974 request, i.e., with the production of the documents designated in the request at the office of Trump Management, Inc., 2611 W. 2nd Street, Brooklyn, New York, and other offices of Trump Management, Inc., as necessary.

If you accept this accommodation, please advise by telephone call to the undersigned at this Office, (212) 596-3563 or 596-3562, before 3:00 p.m. today, Thursday, June 13, 1974.

If you decline our offer, or do not respond, we shall very promptly move the Court - once again - for sanctions and an order appropriate in the circumstances.

Depositions of Trump Management, Inc. employees are to recommence next week on June 18, 19 and 20, 1974. We received yesterday your letter declaring that the scheduled dates are not convenient for you and that, therefore, neither defendants' counsel nor witnesses will appear. You did not suggest alternative dates. Unless you supply proposed alternative firm dates for the depositions before 3:00 p.m. today, we shall also apply to the Court for an ordered schedule with conditional sanctions so that these much delayed depositions may proceed.

Very truly yours,

DAVID G. TRAGER
United States Attorney

By:

Henry A. Brachtel
HENRY A. BRACHTEL
Assistant U. S. Attorney

Donna F. Goldstein
DONNA F. GOLDSTEIN, Attorney
Civil Rights Division
U. S. Department of Justice

To: Saxe, Bacon, et al.

- 3 -

June 13, 1974

Copy: Hon. Edward R. Neaher
United States District Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201
(BY HAND)

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.



JUN 25 1974



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- x
UNITED STATES OF AMERICA :
-against- :
FRED TRUMP, et al. , :
Defendant. :
----- x

TIME A.M.
P.M.
Civil Action No. 73 C 1529

United States District Court
Eastern District of New York
United States Court House
Brooklyn, New York 11201

May 3, 1974
12:00 Noon

BEFORE:

HONORABLE VINCENT A. CATOGGIO
United States Magistrate

A P P E A R A N C E S:

Henry A. Brachtl, Esq.
Assistant United States Attorney

Frank E. Schwell, Esq.
Department of Justice

Alice Goldweber, Esq.
Department of Justice

Scott Manley, Esq.
Attorney for Defendant, Fred C. Trump, et. al.

TRANSCRIBED BY:
Eastern Transcription Service

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MAGISTRATE CATOGGIO: Alright, we are going to record the case of the United States vs. Fred C. Trump, Donald Trump, and Trump Management, Inc. Defendant, no the plaintiff has made a motion for sanctions against the defendant for the defendant's failure to answer interrogatories. Now, we have present for the United States, Henry A. Brachtl, and Mr. Frank E. Schwell, and Miss Goldweber, Alice S. Goldweber, attorney for the Housing Section, Civil Rights Division, Department of Justice. And for the defendant, we now have been graced by the appearance of Mr. Manley... what is your first name Mr. Manley?

MR. MANLEY: Scott.

MAGISTRATE CATOGGIO: Scott...Scott Manley. Alright, it is now 12:00 AM, and we shall proceed after a two hour delay. Now...

MR. BRACHTL: Let the record show, Your Honor that the two hour delay was not by the plaintiff.

MAGISTRATE CATOGGIO: Alright, all of the Government's employes were here promptly. Now, the statute under which this action has been instituted, provides in 42 US 33614, that any court in which the proceeding is instituted under Section 3612 or 3613 of this title, shall assign the case to a hearing at the

earliest practicable date, and cause the case to be in every way expedited. So that this case has to be given priority by not only the court, but by the attorney. The court probably will not countenance this case, this case being second billing to anything else. So from here on in, or at least as long as any phase of the matter is before me, I will insist on prompt disposition. Now, I want to ask the Government a question. Is there any criminal...do you want to come up...or any way you want, go ahead. Pull up chairs if you want..it might be wise. Now, I want to ask the Court. As I indicated before, this is a motion to impose sanctions on the defendant for the defendant's failure to comply with the demand to answer interrogatory served on the defendant's counsel by the plaintiff's counsel. The interrogatory started out, they were filed in this court by the plaintiff, the Government, on November 15, 1973. On January 24, 1974, there was filed in this court a motion to compel answers to those interrogatories. And this motion to impose sanction was filed on April 23, 1974. Now, in a conference in an appearance before Judge (inaudible), I think it was January 25, but I won't...

MISS GOLDWEBER: It was, Your Honor.

MAGISTRATE CATOGGIO: But I won't hold to that date...alright, it was directed that the interrogatories should be answered on or before April 1. And the Government says that they have not yet been answered. Now, Now, the defendants have not filed any exceptions to any of the interrogatories, and I do believe that had they filed the exception to many of the interrogatories they would have made questions that would have been rather sticky, and (inaudible). Now, what is the defendant's...oh, let me ask one question. There is also in the papers, schedule for the taking of depositions. In a conversation I had yesterday with Mr. Cohen, who represents the defendants, the...he made great stress on the fact when I charged him with not doing his homework in this case, and he said yes, we have produced five, seven or more people for depositions. Is that correct Miss Goldweber?

MISS GOLDWEBER: Well, I would like to be heard on that. We tried to schedule...

MAGISTRATE CATOGGIO: Did you have five depositions?

MISS GOLDWEBER: We did have five depositions.

MAGISTRATE CATOGGIO: Was it seven or five?

MISS GOLDWEBER: It is five...but..under very

trying circumstances, Your Honor.

MAGISTRATE CATOGGIO: Alright, but you have them.

MISS GOLDWEBER: We had them.

MAGISTRATE CATOGGIO: Alright, where are the depositions?

MISS GOLDWEBER: Well, we have one witness, the other four are being **filed**.

MAGISTRATE CATOGGIO: Alright, now, is it your intention to file them? With the court clerk?

MISS GOLDWEBER: Yes.

MR. BRACHTL: Your Honor, may I interject...

MAGISTRATE CATOGGIO: Your name is?

MR. BRACHTL: Henry Brachtl.

MAGISTRATE CATOGGIO: Go ahead.

MR. BRACHTL: We believe that the depositions were in all instances completed. Were they? In other words, the depositions were completed?

MAGISTRATE CATOGGIO: Miss Goldweber...

MISS GOLDWEBER: (inaudible).

MAGISTRATE CATOGGIO: Miss Goldweber shakes her head and indicates that she has...

MISS GOLDWEBER: Those depositions were completed.

MAGISTRATE CATOGGIO: They were filed?

UNIDENTIFIED: They were filed.

MR. BRACHTEL: I stand corrected.

MAGISTRATE CATOGGIO: Alright. Now, well...

MR. SCHWELL: I think we should say that getting...

MAGISTRATE CATOGGIO: Your name?

MR. SCHWELL: Schwell.

MAGISTRATE CATOGGIO: Alright, Mr. Schwell?

MR. SCHWELL: That getting those depositions taken...produced some adventures, the likes of which I have never seen before. But we did get a lot of (inaudible).

MAGISTRATE CATOGGIO: Well, there is nothing like adventure. But you have the depositions.

MR. SCHWELL: Those five, yes sir.

MISS GOLDWEBER: Yes sir.

MAGISTRATE CATOGGIO: Alright, is that where we are next? Now, do you need more depositions? How many?

MISS GOLDWEBER: Your Honor, there were approximately nine other people who...

MAGISTRATE CATOGGIO: Nine?

MISS GOLDWEBER: Nine, nine more people noted for depositions under the original notice. However,

I have repeatedly asked Mr. Colin to inform me of which of those persons might possibly be dead or no longer work for this defendant, therefore, they would not be obligated to produce them.

MAGISTRATE CATOGGIO: Yes.

MISS GOLDWEBER: Also, when I first contacted Mr. Colin about arranging such depositions at his request, and as a courtesy to him, I agreed, I did not notice everyone that I wanted for deposition at that time. I felt first we would work on the first eleven or twelve people, and then the Government could notice for additional people if it was necessary.

MAGISTRATE CATOGGIO: Yes, well now....

MISS GOLDWEBER: Now I do believe it will be necessary at this point to notice several.

MAGISTRATE CATOGGIO: Alright, well, let's not run a hate Mr. Colin week...

MISS GOLDWEBER: I don't..I don't....

MAGISTRATE CATOGGIO: Our purpose is to try to get this case moving. Now, can Mr. Manley shed any light on the question of these other depositions. Do you have any...

MR. MANLEY: I hope so, Your Honor, on the entire thing first. My apologies for (inaudible). I

had a couple of things beyond my control. Secondly, Mr. Colin wanted to be here, but he is in St. Louis on a case called Diversified Metals, and he has like a year and a half commitment to try this case.

MAGISTRATE CATOGGIO: Well, as I mentioned before, the mandate of the statute is that the court give it preference...

MR. MANLEY: Yes sir.

MAGISTRATE CATOGGIO: And since the court has to give it preference, I say the lawyers have to give it preference. It is a hard thing for anyone with judicial authority to say, and I am not forgetting that I practiced law for many years...but Irving Kaufman, always...Judge Irving Kaufman...used to remind lawyers, if you are too busy, say so. If you cannot handle the cases that you have, say so.

MR. MANLEY: Well, I am not saying Mr. Colin is too busy, I am merely saying...

MAGISTRATE CATOGGIO: Well, it seems...it seems..

MR. MANLEY; He is in St. Louis...

MAGISTRATE CATOGGIO: Well, it seems that... yesterday, there were a half a dozen of us trying to get Mr. Colin on the telephone. Nobody could reach him. I gave Mr. Colin a real mandate that he be here today

and he is not here. And he is always, I have read most of the papers here, and this has been an awful battle for the Government to make any headway in.

MR. MANLEY: Well, just very briefly. The point here is that we are anxious, Mr. Colin is just as the Government is. Not that this case is on the second rung with us. He....this was purely mechanically impossible at the time that the interrogatives were imposed, and the depositions to (inaudible) to prepare the witnesses and the five major witnesses have already been completely deposed. Can I finish please? And besides the fact that the five major witnesses in this case have been deposed. The very same questions were asked in a written form in the interrogatories, were also asked orally and put forth to these witnesses. But, would...we would like is a few days, possibly ten days to complete the answers to the interrogatory statements, that we couldn't mechanically handle both responding to the interrogatories and conferring the witnesses who didn't already testify at this same time. (inaudible) that the five major witnesses, the five heads of the Trump Organization, who had already been deposed to answer the same questions that were written on paper in the interrogatories.

MAGISTRATE CATOGGIO: Well, if you ask me to make a guess, I would say that if you got in answers to the interrogatories, you probably would obviate the need for taking further depositions. Are you willing to allow that as a possibility, Mr. oh, Miss Goldweber?

MISS GOLDWEBER: I...there is no possible way I could answer that. I don't know what kind of answers to the interrogatories I would have had.

MAGISTRATE CATOGGIO: Yes, well that is a question.

MISS GOLDWEBER: We don't know really what the names of the people were..

MAGISTRATE CATOGGIO: Yes...

MISS GOLDWEBER: One other point I would like to make. These interrogatories were served six months ago.

MAGISTRATE CATOGGIO: I know that. I said that before. You know. They were served November 15th. That isn't six months though. Is it? Or is it?

MISS GOLDWEBER: Five and one-half.

MAGISTRATE CATOGGIO: Oh, I see.

MISS GOLDWEBER: I was never any good at Math.

MAGISTRATE CATOGGIO: Alright, now tell me

.. some of the information, interrogatories are...are really rough. Are you at all elastic on them?

MISS GOLDWEBER: Well, I feel that the defendants have waived their objection and...

MAGISTRATE CATOGGIO: Well, that is a good, I am glad you brought that up. Under the old rule I would have said yes. But under the new rule...within ten, this is Rule 33, within ten days after service of interrogatories, the party may serve written objections to, together of a notice of their objections at the earliest practical to both parties. Where is that now. Oh, that is the old rule...that's right that is the old rule. Now, now I get scared when I...

UNIDENTIFIED: Alright, so we had both, the service of the interrogatories and audits in this case.

MAGISTRATE CATOGGIO: Alright now...the party (inaudible) interrogatories have been served shall serve a copy of the answers and objections, if any, within thirty days. They raised it from ten days, after the service of the interrogatories. Except that a defendant may serve answers or objections within forty-five days after service or summons of complaint upon that defendant. The court may allow a shorter or a longer time. Now that might give us authority to enlarge the time for exceptions. I don't know. And

in a case of this character, I would venture a guess that possibly the court might hear objections, I don't know. But anyway, in order to move the case ahead, and to, to...and in fairness, I think it would be well if the Government were in some regard elastic with respect to some of these interrogatories which seem real dillies. Take the first one, please state the name, race and address of all persons who own stock, well, that's alright. Or have any other ownerships entered direct or indirect, oh, in top management, Inc.

MR. BRACHT: It's a family management, or corporation, Your Honor.

MAGISTRATE CATOGGIO: I know, I know. And the date they acquired such interest...or supposed, suppose there is a bank loan that the company has and they have pledged some of their assets, I am just looking at the first of the interrogatories. And you want to know the race of everybody who works in the First National City Bank or every stockholder in the First National City Bank? These interrogatories are so broad that they allow for some possibilities.

MISS GOLDWEBER: Your Honor. We mean a substantial type of interest, and that interrogatory could be handled if they did have bank loans, it is

merely a sentence.

MAGISTRATE CATOGGIO: Well, alright. I just wanted to say that if they give you a substantial answer, then hopefully you will be satisfied with it. Okay. Now, Mr. Manley, it is your proposal that within ten days you will have some kind of answers...

MR. MANLEY: That's right, Your Honor.

MAGISTRATE CATOGGIO: Well, let's say ten days from Monday. Instead of ten days from today. Is that better?

MR. MANLEY: Yes, ten days from Monday would be fine.

MAGISTRATE CATOGGIO: That would make it the 15th of January...no of May. The 15th of May. Wouldn't it?

UNIDENTIFIED: The 16th of May.

MAGISTRATE CATOGGIO: The 16th of May, guaranteed you will have answers to these interrogatories?

MR. MANLEY: Yes sir.

MAGISTRATE CATOGGIO: Is that alright for the Government?

MISS GOLDWEBER: Your Honor, would it be possible that there could be some kind of conditional

sanctions imposed, but it would be lifted as soon as..

MAGISTRATE CATOGGIO: I could only recommend
I could not imposed any restrictions, or sanctions
myself.

MISS GOLDWEBER: No, I understand that.

MAGISTRATE CATOGGIO: Yes.

MR. MANLEY: What is the point, Your Honor?
Is the point to punish the defendant, or to give the
answers to the interrogatories?

MAGISTRATE CATOGGIO: Well, we have not
gotten to that yet. The point is to get the answers
to the interrogatories, and what they are saying is,
I think, they havent expressed it exactly correctly,
yes, until the 16th of May, answer the interrogatories
and if they are not answered by then, then the sanc-
tions would come into play. You see. But I am not
going to handle it that way. I am not going to make
any recomendation. And since you are dealing with
mature people then they do run into difficulties in
the practice of the law, and I know what it is. You
can get into a period of two or three months when you
don't know your own name, and you try, and then you get
slack periods...it may be that we have just gotten Mr.
Colin and Mr. Manley's firm in a period when they are

up to their ears in a lot of work and maybe in a couple of weeks or in a month or so it will clear away. All right. The 16th of May or before that, and now...What about the depositions. Do you want to hold further depositions in advance until you get answers? I would think so.

MISS GOLDBERGER: Well, let me just say..

MAGISTRATE CATOGGIO: Why go through a lot of motions and beat yourself...

MISS GOLDBERGER: The other persons that were planning to depose, are resident managers of buildings that the defendants who were involved in the alleged incidents of racial discrimination, and so they might possibly have personal knowledge of those incidents since they would be resident managers of the victims, that the alleged victims dealt with.

MAGISTRATE CATOGGIO: Are they...are they of such stature that, now because what they say would not be of admission against Fred Trump individually would it?

MISS GOLDBERGER: No, not against Mr. Trump individually, but they...

MAGISTRATE CATOGGIO: Or his son (inaudible).

UNIDENTIFIED: He predicts they did sir.

MISS GOLDWEBER: Right.

MAGISTRATE CATOGGIO: Well, this is not on the question of agency. To...to use as an admission anything that they say. You have to have them in a supervisory or in a what capacity shall I say here?

MR. BRACHTEL: Managerial.

MAGISTRATE CATOGGIO: Managerial. Well no, he meant, it is more than managerial. The representative capacity.

MISS GOLDWEBER: Well, an interesting thing here is...

MAGISTRATE CATOGGIO: Well, just because the man is in charge of a house and puts out the ash barrels and the garbage barrels...

MR. BRACHTEL: We are talking agents under Rule 43, Your Honor, people who run the,,who run the building where the people were (inaudible).

MAGISTRATE CATOGGIO: Yes, but can he can contract for the landlord?

MISS GOLDWEBER: Your Honor, an interesting thing happened during the depositions. While we were questioning Mr. Fred Trump and his son, Donald Trump, they indicated during their depositions that they didn't have much control at all over the appli-

cations. And all this control that who became a tenant, and who will become a tenant was really in the hands of these resident managers. And there are a number of their Fair Housing Lawsuits that have held that the duty of an owner of a building or a real estate company, their duty to comply with the Fair Housing Act is non-delegable. They cannot delegate that to anyone. And that they are liable for the action of their employees under Respondeat Superior. Because the whole impetus of the Fair Housing Act would come to naught if the persons who worked for a large organization could continue as we alleged discriminate and no one would be held accountable for that. With any kind of pattern to change the pattern.

MAGISTRATE CATOGGIO: You mean Mayor Beame would be liable if somebody managing a city housing development would be...was discriminatory? Is that would..is that what you are talking about?

MISS GOLDWEBER: The City would be liable. Because there was just a recent case of Otaro vs. The City, The City Housing Authority, and they held the City Housing Authority you know, would be responsible.

MAGISTRATE CATOGGIO: The male so called,

wouldnt, right? I mean the mayor...

MISS GOLDWEBER: Well, the City Housing Authority is part of the mayor's agency.

MR. BRACHTEL: The Mayor could be liable if he had a duty to supervise and failed to...failed to supervise adequately. The case is..under the Housing Law, probably are broader on the principal responsibility of any other.

MAGISTRATE CATOGGIO: Alright, what do you want to do now. Do you want to wait to see what answers he gives you before you approach any more depositions?

MISS GOLDWEBER: That would be...alright, but...

MAGISTRATE CATOGGIO: Alright, we must make a schedule.

MISS GOLDWEBER: We would like a schedule so that, you see, some of the problems with the case, and I don't want to say this harshly, but Mr. Colin is extremely busy, and we feel that if he had a schedule from the court, then Mr. Colin would then be able to plan enough ahead of time to have responsibility in this case consistent with his other obligations. Such as like depositions are to be completed within sixty days.

And then they could take depositions of our witnesses from the time of receiving the interrogatories.

Another sixty days to complete the record inspection any other supplemental interrogatories. Then everyone would know their obligations in the case. And if Mr. Colin at that time would continue to be too busy, then he...another attorney could take over.

MAGISTRATE CATOGGIO: I see...there was... I did come across a list of the people to be deposed. Do you have that handy?

MISS GOLDWEBER: Yes.

MAGISTRATE CATOGGIO: You did have such a schedule before.

MISS GOLDWEBER: That is right, which has been changed and numbered. Would this help you?

MAGISTRATE CATOGGIO: Yes, that was it. Now.. oh yes, here it is right on the top. Fine. Alright, now, let's go through that list. Donald Trump, has his been taken?

MISS GOLDWEBER: Yes.

MAGISTRATE CATOGGIO: Fred Trump, taken?

MISS GOLDWEBER: Yes.

MAGISTRATE CATOGGIO: Stewart Hyman?

MISS GOLDWEBER: Yes.

MAGISTRATE CATOGGIO: Sophie Fredwald?

MISS GOLDWEBER: Yes.

MAGISTRATE CATOGGIO: Ms. Baretzo (phonetic)

MISS GOLDWEBER: None of the rest of them were taken, Your Honor.

MAGISTRATE CATOGGIO: But that is only four taken?

MISS GOLDWEBER: Well, there was a fifth, who wasn't on this list.

MAGISTRATE CATOGGIO: Who was he?

MISS GOLDWEBER: It was a Mrs. Buckley. And the Trumps produced her because it was easier for them, and it was alright.

MAGISTRATE CATOGGIO: Was she a manager of theirs?

MISS GOLDWEBER: She was what they called an a Section Manager. She reviewed the applications after they were submitted.

MAGISTRATE CATOGGIO: Alright. Mr. Manley. Do you have the list before you?

MR. MANLEY: No, Your Honor.

MAGISTRATE CATOGGIO: Can you show it to Mr. Manley? Do you know anything about the availability of any of these people?

MR. MANLEY: Not too much, Your Honor. I would (inaudible). I am not sure. All of these people are still working for the Trump Organization, I think. But if they aren't the people who remained working for the Trump Organization, they would be I was about to say very available.

MAGISTRATE CATOGGIO: Alright. Point One. Will you within one week advise the Government of who of these people taking number five down through thirteen of the list that form part of the stipulation of April 1, 1974. Who of these people are still under the employ of the Trump Organizations. By that I mean Trump Management, or the Trumps individually.

MR. MANLEY: Yes, Your Honor.

MAGISTRATE CATOGGIO: Alright. that is what did I say? Ten days?

UNIDENTIFIED: One week, Your Honor.

MAGISTRATE CATOGGIO: One week. Alright, so that...Friday the 10th?

MISS GOLDWEBER: Yes, Your Honor.

MAGISTRATE CATOGGIO: Alright, I will give it to you until the 13th. By May 13th. Alright?

MR. MANLEY: Yes, Your Honor.

MAGISTRATE CATOGGIO: Mr. Manley? Okay. You

will notify the...who?

MISS GOLDWEBER: Myself, Your Honor.

MAGISTRATE CATOGGIO: Miss...

MISS GOLDWEBER: Goldweber.

MAGISTRATE CATOGGIO: Goldweber. Copies to Bracht and..

MR. BRACHTL: I don't think that is necessary Your Honor.

MISS GOLDWEBER: Well, one for Mr. Schwell. I work for Mr. Schwell, so...

MAGISTRATE CATOGGIO: Oh. Alright, so a copy to Mr. Bracht, and a copy to me.

MISS GOLDWEBER: One other thing, Your Honor. I just want to make clear that this won't preclude us after we get our answers from the interrogatories if we wanted to (inaudible).

MAGISTRATE CATOGGIO: No...no. It will not.

MR. HANLEY: Let me say that I will definitely communicate with the Government and this court in regard to the remaining witnesses.

MAGISTRATE CATOGGIO: Alright. So, and on the 16th, you will, May 16th you will answer, or before you will answer all interrogatories.

MR. HANLEY: Yes, Your Honor.

MAGISTRATE CATOGGIO: In some way, shape or manner. Alright.

MISS GOLDWEBER: Your Honor, we hope that those answers would try to be somewhat responsive to the questions.

MAGISTRATE CATOGGIO: Well, if an interrogatory is too complicated, it defeats its own purpose. That's been my experience.

MISS GOLDWEBER: Well, I don't think that they are exceptionally complicated, really. Most of the information concerned in them...

MAGISTRATE CATOGGIO: That's when I prepared interrogatories, I made them short. Each interrogatory, not involved. The more involved the interrogatory is, the less good it is. Own or have any interest in...they're bad in my opinion. Alright, anything else you want to trouble Mr. Manley with?

MR. BRACHTL: I don't think so. I think one thing with that is...what I have in mind is this. That even if they have sent out the most obvious long ones, but I do think that they have an obligation to do...to give us meaningful answers as to the information (inaudible).

MAGISTRATE CATOGGIO: I am depending on

the facts and...

MR. BRACHTL: 32 I don't know if I have a duty to know, but had they been acceptable...which i...under the rules, they have an obligation to know somethings, and to find them out.

MAGISTRATE CATOGGIO: Yes. Well, let's see what we get. Now, all I am trying to do is to impress on Mr. Manley and Mr. Colin that they must move this thing and...because they are building up a record where they are inviting trouble. Don't let that happen.

MR. SCHWELL: Your Honor, just two points that I wish to make for the Government, and first of all, both the order requiring the subject to answer the interrogatories by April 1st, and the stipulated schedule of depositions to be taken were orders of the court.

MAGISTRATE CATOGGIO: Yes.

MR. SCHWELL: Thus, we are now in a period of second-round orders, and to affect the same results under those circumstances, I wish to reiterate the Governments' request that conditional sanctions would be appropriate at this time, and we request that in your report and recommendations to the Court, that

you request for a regulation that such conditioned sanctions be imposed and be granted.

MAGISTRATE CATOGGIO: Well I...

MR. SCHWILL: Secondly,

MAGISTRATE CATOGGIO: Well, it is difficult what you are asking is the court to impose sanction on a lawyer who finds himself when he finds himself at a time when he is a little too busy...busier than he wants to be maybe. And that at a time when a judge finds himself too busy. The judge is not able to take it today because the judge is out in Westbury, you see. So what is good for one is good for the other.

MR. SCHWILL: The other item, Your Honor, is I believe our motion to include a request for an order including costs of this motion, which would be appropriate and we would ask that those costs be granted and we would be pleased to submit the affidavits regarding counsel's time and expenses with respect to this motion.

MAGISTRATE CATOGGIO: Well, that is a difficult one. If the...if the defendant's produce answers let's get those in. If they produce answers to those interrogatories, our troubles will be a lot less than they are. Let's not defog the issue. We want answers.

We want to move the case. Now, if they don't comply alright, then we will go to work on it. On your line, alright? So please Mr. Manley, convey my thoughts to Mr. Colin, and anyone else in your office touching this case. They can't fool around. It can't be handled the way it has been handled, and you have to give it attention. Can you do that?

MR. MANLEY: Yes, Your Honor.

MAGISTRATE CATOCCIO: Alright, fine. Now, that's it.

MR. MANLEY: Thank you very much, Your Honor.

MR. SCHWILL; Thank you, Your Honor.

* * * * *

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D. N.Y.

★ JUL 12 1974 ★

EASTERN DISTRICT OF

NEW YORK

TIME A.M.
P.M.

UNITED STATES OF AMERICA,)	
	)	CIVIL ACTION NO. 73 C 1529
Plaintiff,)	
)	
v.)	
)	
FRED C. TRUMP, ET AL.,)	
	)	<u>NOTICE TO TAKE DEPOSITIONS</u>
Defendants.	)	<u>UPON ORAL EXAMINATION</u>
)	

To: Roy Cohn, Esquire
 Saxe, Bacon, Bolan & Manley
 39 E. 68 Street
 New York, New York 10021

Please take notice that commencing on the 30th day of July 1974, the plaintiff, United States of America, will take the depositions of the agents and employees of Trump Management, Inc., whose names are set forth on the time schedule attached hereto as Appendix A, at the office of the United States Attorney, 225 Cadman Plaza East, Fifth Floor, in the Borough of Brooklyn, City of New York. These depositions will be upon oral examination pursuant to Rule 30 of the Federal Rules of Civil Procedure, before an officer authorized by law to administer oaths and take testimony. The oral examination will continue from day to day until completed.


Also, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Documents designated in Appendix B attached

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hereto are being subpoenaed to be produced by deponents at the taking of this deposition.

Dated this 9th of July, 1974.

DAVID G. TRAGER
United States Attorney



DONNA GOLDSTEIN
NORMAN P. GOLDBERG
Attorneys, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

APPENDIX A

To Notice to Take Depositions Upon Oral Examination

- To: Roy Cohn, Esquire
Saxe, Bacon, Bolan & Manley
39 E. 68th Street
New York, New York 10021
1. Ms. Minerva Gilbert
res. 3000 Ocean Parkway
Brooklyn, New York
emp. Trump Management, Inc.
2611 W. 2nd Street
Brooklyn, New York
Tuesday,
July 30, 1974,
9:00 a.m.
 2. Ms. Margueritte Marrazzo
res. 2457 Grogg Street
Brooklyn, New York
emp. Trump Management, Inc.
2611 West 2nd Street
Brooklyn, New York
Tuesday
July 30, 1974
12:30 p.m.
 3. Mr. Skender Fici
Superintendent
Fountainbleu Apartments
8855 Bay Parkway
Brooklyn, New York
Tuesday,
July 30, 1974
3:00 p.m.
 4. Mr. Guido Lara
Superintendent
Ocean Terrace Apartments
2650 Ocean Parkway
Brooklyn, New York
Wednesday,
July 31, 1974
9:00 a.m.
 5. Mr. Louis Sarnell
Rental Agent
Shorehaven Apartments
8850 19th Avenue
Brooklyn, New York
Wednesday,
July 31, 1974
12:30 p.m.
 6. Mr. Walter Rohr
Superintendent
Patio Gardens Apartments
590 Flatbush Avenue
Brooklyn, New York
Wednesday
July 31, 1974
3:00 p.m.

7. Mr. James T. Green
Superintendent
Westminster Hall Apartments
405 Westminster Road
Brooklyn, New York
Thursday,
August 1, 1974
9:00 a.m.
8. Mr. Daniel Borth
Superintendent
Kendall Hall Apartments
41-10 Bowne Street
Flushing, New York
Thursday,
August 1, 1974
1:00 p.m.
9. Mr. Joseph Zecher
Superintendent
Trump Village Apartments
2940-3000 Ocean Parkway
Brooklyn, New York
Thursday,
August 1, 1974
3:00 p.m.
10. Mr. Milan Mitijevick
Superintendent
Wexford Terrace Apartments
86-75 Midland Parkway
Jamaica, New York
Friday,
August 2, 1974
10:00 a.m.
11. Mr. Raymond E. Travis
Superintendent
Wedgewood Hall Apartments
2580 Ocean Parkway
Brooklyn, New York
Friday,
August 2, 1974
1:00 p.m.

APPENDIX B

To Notice to Take Depositions Upon Oral Examination

To: Roy Cohn, Esquire
Saxe, Bacon, Bolan & Manley
39 E. 68th Street
New York, New York 10021

The documents^{*}/ set forth below are being subpoenaed from the following agents and employees of Trump Management, Inc., to be brought at the time of each employee's deposition:

Mr. Skender Fici
Mr. Guido Lara
Mr. Louis Sarnell
Mr. James T. Green
Mr. Daniel Borth
Mr. Walter Rohr
Mr. Joseph Zecher
Mr. Milan Mitijevick
Mr. Raymond E. Travis

1. All completed leases, applications and records of payment of deposits in the possession, custody or control of the deponent.

2. All records, cards, waiting lists or other forms of documentation in the possession, custody or control of the deponent which contain the names, addresses and dates of contact of any prospective tenant or any individual who has applied, sought to apply or made inquiry concerning residing at an apartment building owned by the defendants.

3. All written documents, correspondence, forms or other writings in the possession, custody or control of the deponent which contain instructions, advice or stated or

^{*}/ Documents previously made available to the government pursuant to the May 6, 1974, Request for Production of Documents need not be reproduced here.


suggested policies or practices with respect to the rental of apartments or the processing of applications at the defendants' buildings.

CERTIFICATE OF SERVICE

I, Donna Goldstein, an attorney for plaintiff, hereby certifies that I have served a copy of the foregoing Notice to Take Depositions upon Oral Examination on the defendants by mailing a copy, postage prepaid, to their attorney at the following address:

Roy Cohn, Esquire
Saxe, Bacon, Bolan & Manley
39 E. 68th Street
New York, New York 10021

This 9th day of July, 1974.



DONNA GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

NPG:jfb
DJ 175-52-28

AUG 12 1974

Mr. Roy Cohn
Saxe, Bacon, Bolan & Manley
39 E. 68 Street
New York, New York 10023

Re: United States v. Fred C. Trump, et al.
C.A. No. 73 C1529

Dear Mr. Cohn:

Pursuant to Magistrate Catoggio's order of August 8, 1974, we have set forth below the remainder of discovery that is necessary for us to complete that phase of our preparation of this lawsuit

1. Depositions:

- a. Ms. Carol Falcone
- b. Mr. Thomas Miranda
- c. Mr. Louis Sarnell, Supt., Shorehaven
(deposition previously postponed)
- d. Al Weber, Superintendent
Edgerton Hall
- e. Mr. Henry Neher, Supt.
The Belcrest Apts.
- f. Mr. W. Volz, Supt.
Winston Hall
- g. Mr. John Raymond, Supt.
Nautilus Apts.

We are planning to notice these depositions for August 22-23, 1974. If this date is unacceptable to you, please contact us by Wednesday, August 14, 1974; otherwise, notices shall be sent out accordingly. *

2. Request for Production of Documents

We are sending under separate cover a request for production of the following documents that have not previously been produced:

a. Current tenant applications and leases for the following buildings:

1. Chelsea Hall
2. Nautilus Hall
3. Ocean Terrace
4. Lincoln Shore

b. Receipt books or other documents which contain records of payment of deposits for the rental of apartments for each of defendants' buildings situated in the New York area.

We propose that this production take place at your office on Monday, August 26, 1974. If this date is inconvenient to you, please provide us with an alternative date that is not inconsistent with the discovery deadline set by Magistrate Catoggio.

We are also sending under separate cover a request for the following documents relating to the operations of defendants' apartment buildings in Norfolk, Virginia,*/ (Hague, Pembroke, Oceanaire and two smaller buildings):

Current tenant applications and leases
Employee payroll records
Waiting lists
Rejected applications

*/ See paragraph 3 of the Complaint which states that the defendants operate dwellings "in the New York area and elsewhere."

We are proposing that the documents be made available at the Oceanaire on August 29, 1974. If this date is inconvenient to you, please advise us in advance of that date so that we may make new arrangements.

I look forward to hearing from you by August 14, 1974, to confirm the schedule set forth above.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By:

NORMAN P. GOLDBERG
Attorney
Housing Section

cc: The Honorable Vincent A. Catoggio

JDP:HAB:ec
F. #730959

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA,

Plaintiff,

NOTICE TO TAKE
DEPOSITION UPON
ORAL EXAMINATION

- against -

FRED C. TRUMP, DONALD TRUMP and
TRUMP MANAGEMENT, INC.,

Defendants.

Civil Action
No. 73 C 1529

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ AUG 2 1974 ★

TIME A.M.
P.M.

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S I R S :

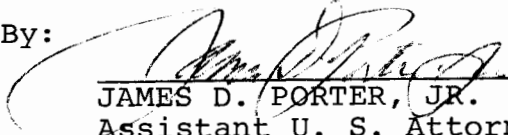
PLEASE TAKE NOTICE that at 4:00 P.M. on the 8th day of August, 1974, at Room 290, 225 Cadman Plaza East, in the Borough of Brooklyn, City of New York, the plaintiff in the above-entitled action will take the deposition of CAROL R. FALCONE as a witness upon oral examination, pursuant to the Federal Rules of Civil Procedure, before the Honorable Vincent A. Catoggio, United States Magistrate, or before some other officer authorized by law to take depositions. The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

Dated: Brooklyn, New York
August 2, 1974

Yours, etc.,

DAVID G. TRAGER
United States Attorney
Eastern District of New York
Attorney for Plaintiff

By:



JAMES D. PORTER, JR.
Assistant U. S. Attorney
Chief, Civil Division
225 Cadman Plaza East
Brooklyn, New York 11201

TO:
SAXE, BACON, BOLAN & MANLEY, ESQS.
Attorneys for Defendants
39 East 68th Street
New York, New York 10021

37

JDP:HAB:ec
F. #730959

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
EASTERN DISTRICT OF N.Y.

★ AUG 2 1974 ★

TIME A.M.....
P.M.....

UNITED STATES OF AMERICA,

Plaintiff,

NOTICE TO TAKE
DEPOSITION UPON
ORAL EXAMINATION

- against -

Civil Action
No. 73 C 1529

FRED C. TRUMP, DONALD TRUMP and
TRUMP MANAGEMENT, INC.,

Defendants.

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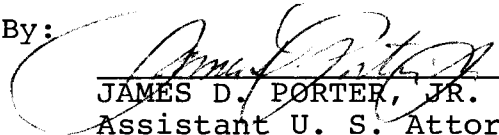
S I R S :

PLEASE TAKE NOTICE that at 10:00 A.M. on the 9th day of August, 1974, at Room 409, 90-04 161st Street, in Jamaica, Borough of Queens, City of New York, the plaintiff in the above-entitled action will take the deposition of THOMAS MIRANDA as a witness upon oral examination, pursuant to the Federal Rules of Civil Procedure, before a Notary Public, or before some other officer authorized by law to take depositions. The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

Dated: Brooklyn, New York
August 2, 1974

Yours, etc.,

DAVID G. TRAGER
United States Attorney
Eastern District of New York
Attorney for Plaintiff

By: 
JAMES D. PORTER, JR.
Assistant U. S. Attorney
Chief, Civil Division
225 Cadman Plaza East
Brooklyn, New York 11201

TO:
SAXE, BACON, BOLAN & MANLEY, ESQS.
Attorneys for Defendants
39 East 68th Street
New York, New York 10021



JDP:HAB:ec
F. #730959

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RECEIVED
U. S. DISTRICT COURT E.D. N.Y.
★ AUG 2 1974 ★

TIME A.M.
P.M.
X

UNITED STATES OF AMERICA,

Plaintiff,

NOTICE TO TAKE
DEPOSITION UPON
ORAL EXAMINATION

- against -

Civil Action
No. 73 C 1529

FRED C. TRUMP, DONALD TRUMP and
TRUMP MANAGEMENT, INC.,

Defendants.

S I R S :

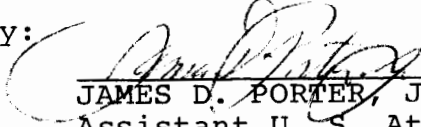
PLEASE TAKE NOTICE that at 3:00 P.M. on the 9th day of August, 1974, at the Office of the United States Attorney, 225 Cadman Plaza East, Room G-80, in the Borough of Brooklyn, City of New York, plaintiff UNITED STATES OF AMERICA will take the deposition of DONALD TRUMP as an adverse party upon oral examination, pursuant to the Federal Rules of Civil Procedure, before a Notary Public, or before some other officer authorized by law to take depositions. The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

Dated: Brooklyn, New York
August 2, 1974

Yours, etc.,

DAVID G. TRAGER
United States Attorney
Eastern District of New York
Attorney for Plaintiff

By:


JAMES D. PORTER, JR.
Assistant U. S. Attorney
Chief, Civil Division
225 Cadman Plaza East
Brooklyn, New York 11201

TO:
SAXE, BACON, BOLAN & MANLEY, ESQS.
Attorneys for Defendants
39 East 68th Street
New York, New York 10021

39

JDP:HAB:ec
F. #730959

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ AUG 2 1974 ★

----- X

UNITED STATES OF AMERICA,
Plaintiff,

- against -

FRED C. TRUMP, DONALD TRUMP and
TRUMP MANAGEMENT, INC.,
Defendants.

----- X

TIME A.M.
P.M.

NOTICE TO TAKE
DEPOSITION UPON
ORAL EXAMINATION

Civil Action
No. 73 C 1529

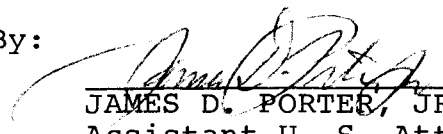
S I R S :

PLEASE TAKE NOTICE that at 10:00 A.M. on the 12th day of August, 1974, at the Office of the United States Attorney, 900 Ellison Avenue, in Westbury, New York, the plaintiff in the above-entitled action will take the deposition of PAUL ZISELMAN as a witness upon oral examination, pursuant to the Federal Rules of Civil Procedure, before a Notary Public, or before some other officer authorized by law to take depositions. The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

Dated: Brooklyn, New York
August 2, 1974

Yours, etc.,

DAVID G. TRAGER
United States Attorney
Eastern District of New York
Attorney for Plaintiff

By: 
JAMES D. PORTER, JR.
Assistant U. S. Attorney
Chief, Civil Division
225 Cadman Plaza East
Brooklyn, New York 11201

TO:
SAXE, BACON, BOLAN & MANLEY, ESQS.
Attorneys for Defendants
39 East 68th Street
New York, New York 10021

40

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ JUL 30 1974 ★

TIME A.M.
P.M.

Civil Action No.
73 C 1529 (EN)

NOTICE OF MOTION

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

- against -

FRED C. TRUMP, DONALD TRUMP and
TRUMP MANAGEMENT, INC.,

Defendants.

MISS:

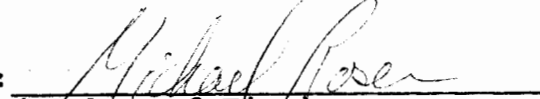
PLEASE TAKE NOTICE, that upon the annexed affidavit of ROY M COHN, the affidavits and statements attached as exhibits hereto and upon all the proceedings heretofore had herein, the undersigned will move this Court on the 16th day of August, 1974, in the Federal Court, Cadman Plaza E., County of Kings, City and State of New York, at 10:00 o'clock in the forenoon of that day, or as soon thereafter as counsel may be heard, for an order finding DONNA F. GOLDSTEIN, Esq., Civil Rights Division of the Department of Justice, guilty of contempt of the court, and for a cease and desist order against the said DONNA F. GOLDSTEIN and any and all other agents of the U. S. Government, ordering the said parties to cease and desist from making any express or implied threats upon any potential witnesses in this proceeding, including, but not limited to, former employees of the defendant, TRUMP MANAGEMENT, INC.

Dated: New York, New York
July 26, 1974

Respectfully,

SAXE, BACON, BOLAN & MANLEY
Attorneys for Defendant

BY:



(Member of Firm)

Office & P.O. Address
39 East 68th Street
New York, New York 10021
Telephone (212) 472-1400

TO: DONNA F. GOLDSTEIN, Esq.
Civil Rights Division
c/o Henry Bracthl, Assistant
U. S. Attorney
United States Department of Justice
225 Cadman Plaza East
Brooklyn, New York

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA,

Plaintiff,

Civil Action No.
73 C 1529

- against -

AFFIDAVIT

FRED C. TRUMP, DONALD TRUMP,
and TRUMP MANAGEMENT, INC.,

Defendants.

-----X

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

ROY M. COHN, being duly sworn, deposes and says:

1. I am senior partner in the firm of SAXE, BACON, BOLAN & MANLEY, attorneys for the defendants, and make this affidavit in support of defendants' motion.

2. The investigation of this case for the Justice Department was initiated by Miss Elyse Goldweber of the Civil Rights Division, Department of Justice. At all times that she was in charge of the said investigation, Miss Goldweber pursued her duties with diligence, but observed legal and ethical strictures.

3. At some time during the investigation, Miss Goldweber was replaced by one DONNA F. GOLDSTEIN, Esq. Commencing with her entry upon the scene, the investigation, which had been conducted within the boundaries of legal propriety, turned into a gestapo-like interrogation. Former employees of the defendants contacted them to complain that Miss Goldstein had berated them with threats of jail and accusations that they were

"lying" and had been "taped" by the government while working for the defendants. Statements of some of these witnesses describing what happened have been obtained and indicate a course of conduct requiring action by this Court. (We attach as Exhibit I the affidavit of Carol R. Falcone, formerly employed as a clerk by Trump Management, Inc.; as Exhibit 2 we attach the affidavit of Thomas Miranda, formerly employed by the defendant; as Exhibits 3 and 4 we attach the witnessed statements of Paul and Paula Ziselman, formerly employed as rental agents by the defendant.) Miss Goldstein's harassment, abuse and disregard for the rights of these prospective witnesses has interfered with, and continues to interfere with, the orderly and proper conduct of this case.

4. On or about June 12, 1974, Miss Goldstein, by-passing counsel, literally descended upon the defendant with representatives of the Civil Rights Division and Student Interns demanding entry into the offices of Mr. Donald Trump, officer of the defendants' corporation, and production of defendants' records. When informed that Miss Goldstein and her associates should contact our offices they persisted in their demands, and only after contacting the United States Attorney for the Eastern District of New York were we able to get them to leave the defendants' offices. (See attached letter of Scott E. Manley, Exhibit 5.)


5. In order to be as helpful as possible to Miss Goldstein and her associates, we provided them with over fifty (50) boxes of defendants' files, which were conveyed to our offices and were completely open to them. We were informed by Miss Goldstein that this investigation would take only a very

"short period" when in fact she and her associates spent from two to three weeks examining the defendants' files in our offices, thereby completely disrupting the functioning of our firm's legal work.

6. The conclusion to be drawn from this conduct is the correctness of our allegation that there is no case here and that there was none when the well-publicized charge was made. Having made such a serious legal charge and having accomplished a publicity blast, the plaintiff is now attempting to build a case by illegal means and to lend artistic verisimilitude to its unsupported complaint.

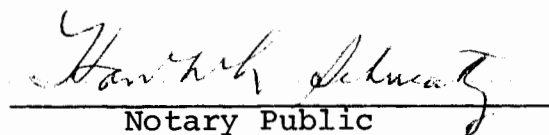
7. I have been informed by representatives of the defendant of the recent activities of Miss Goldstein, badgering and threatening past employees of the defendant, and submit that her tactics are completely out of character for a representative of the United States Government.

WHEREFORE, I respectfully request that the defendants' motion be granted in all respects.



ROY M. COHN

Sworn to before me this
29 day of July, 1974



Notary Public

HAROLD L. SCHWARTZ
Notary Public, State of New York
No. 31-8872220
Qualified in New York County
Commission Expires March 30, 1976

July 19th 1974

I, the undersigned, hereby state that the following statements are true and correct.

I was interviewed by a Ms. Donna Goldstein, attorney for the Civil Rights Division of the Justice Department and by another attorney on the morning of July 19th 1974 at my place of business in connection with the Civil Rights Suit against my former employer Pump Management. During the lengthy interview which lasted approximately 3½ hours I stated and repeated that I did not discriminate in housing practices during the period of my employment with Pump Management which was about 3½ years.

My position with the Company was that of a clerk. My immediate supervisor was Mrs. Albert I personally have never discriminated in my position with the Company which I repeated several times in my statements to the Government Attorneys.

Ms. Goldstein embarrassed and accused me of lying and withholding

EXHIBIT
1

information and then threatened that I would be held for perjury and thrown into jail.

She accused me of not legitimately owning my own business and stated that the money I used for its purchase was illegally obtained which it was not.

She accused me of dating Donald Trump in front of my husband which was untrue and very embarrassing nor did Donald Trump ever ask for a date.

She also stated the management office phones were tapped and that she knew through tapes that I was guilty which I am not.

She acted in a hostile manner during the 3½ hour interrogation. In fact they make me feel I was a criminal being held on a murder charge. After all I was only in a position of a clerk for the Company and my low rate of pay would bear this out.

Before leaving the premises, she stated she would return again.

for future interrogation with FBI
agents and would see to it that if
I don't testify in her favor she
would have me thrown in jail

I believe the attorney for
the United States Government should
be stopped at once from using
these Gestapo tactics, since we
are still in a free country

Carol L. Falcone

Sworn to before me this
24th day of July, 1974
County of Kings, State of N.Y.

William Preiss

WILLIAM PREISS
Notary Public, State of New York
No. 8431925
Qualified in Queens County
Commission Expires March 30, 1978

July 22nd, 1974

TO WHOM IT MAY CONCERN:

I, Thomas Miranda, residing at 3989 - 50th Street, Woodside, New York, N.Y. 11377 seek protection from the harassment of the U. S. Department of Justice and specifically Ms. Donna Goldstein.

Despite the fact that I have stated on numerous occasions that I have never discriminated or have never been told to discriminate while working for Trump Management, and although I have no great liking for Trump Management, I have constantly and persistently been called upon by Ms. Goldstein to go against Trump Management, even though, if I did, I would be lying.

Additionally, she stated that if I did not cooperate with her and in effect "lie" in order to help her in her ambitions and winning her case, " I will be thrown into jail".

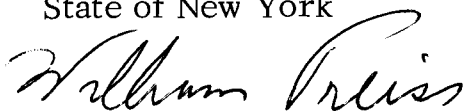
I can no longer tolerate this persecution and am asking for the immediate cessation of any further dealings with Ms. Goldstein.

I refuse to change my testimony in that I will not lie under any circumstances regardless of Ms. Goldstein's unyielding threats.

Additionally, I would like to add that I am a Spanish speaking Puerto Rican hired directly by Mr. Donald Trump.

Sworn to before me this
22nd day of July 1974

County of Kings
State of New York


Thomas Miranda

WILLIAM PREISS
Notary Public, State of New York
No. 8431925
Qualified in Queens County
Commission Expires March 30, 1976

EXHIBIT 2

100 Jedwood Place
Valley Stream, L.I., N.Y.
July 19th, 1974

TO WHOM IT MAY CONCERN:

I, Paul Ziselman hereby make the following true and correct statements of my own free will:

I was formerly employed by Trump Management on a part-time basis as a rental agent at Beach Haven Apartments, 2611 W. 2nd Street, Brooklyn, New York. During my period of employment I personally never discriminated against any prospective tenants regardless of race, color or creed.

Additionally, I have never been instructed by any superior of the Trump Office, nor was it ever suggested or stated to me in any way, manner or form to follow a racially discriminatory rental policy while I was employed by this company. In fact, during such employment I rented many apartments to minorities, including blacks.

Despite the above mentioned, I was visited by a representative of the Justice Department who stated that an "FBI Agent" would be back to continue the interrogation. These statements were made in a threatening manner and I strongly resent and object to it. I was especially harassed and intimidated by a Donna Goldstein and in my opinion, her unethical conduct in itself should be a matter of investigation.

WITNESSED:

Paula Ziselman

Paul Ziselman
PAUL ZISELMAN

EXHIBIT 3

100 Jedwood Place
Valley Stream, L.I., N.Y.
July 19th, 1974

TO WHOM IT MAY CONCERN:

I, ^{PAULA ~~fx~~} ~~Paul~~ Ziselman hereby make the following statements of my own free will, which are true and correct.

I was formerly employed by Trump Management on a part-time basis as a rental agent at Beach Haven Apartments, 2611 W. 2nd Street, Brooklyn, New York. During my employment under no circumstances did I ever discriminate, nor was I ever told to discriminate by any superior of Trump Management against any person regardless of race, color or creed desiring the rental of an apartment.

Paula Ziselman
~~Paul Ziselman~~ (with a circled 'g' next to it)
PAULA ZISELMAN

WITNESSED:

Paul Zucki

Saxe, Bacon, Bolan & Manley

39 EAST 66TH STREET
NEW YORK, NEW YORK 10021

JOHN GODFREY SAXE (1909-1953)
ROGERS H. BACON (1919-1982)

(212) 472-1400

THOMAS A. BOLAN
COUNSEL

ROY M. COHN
SCOTT E. MANLEY (ADMITTED ILLINOIS AND INDIANA)
MICHAEL ROSEN

DANIEL J. DRISCOLL

HAROLD SCHWARTZ
MELVYN RUBIN
JEFFREY A. SHUMAN
LORIN DUCKMAN

June 13, 1974

BY HAND

Henry A. Brachtl, Assistant U.S. Attorney
Donna F. Goldstein, Attorney-Civil Rights
Division
United States Department of Justice
Federal Building
Brooklyn, New York

Dear Mr. Brachtl:

I am in receipt of your letter dated today which was waiting for me at my office upon my return from the Cohen v. Cohen trial this afternoon at 5:00 p.m.

We stand ready to let you begin inspecting and copying records in U.S.A. v. Trump tomorrow morning, June 14, as per my agreement with Miss Goldstein reached over the telephone on Wednesday. While I regret the misunderstanding that led to your descending upon the Trump offices with five stormtroopers Wednesday morning banging on the doors and demanding to be allowed to swarm haphazardly through all of the Trump files and to totally disrupt their daily business routine, I do not feel that there is any point in carrying the argument any further. I would assume that your objective is the same as ours in this matter, namely, proceeding orderly with pre-trial discovery so as to enable both sides to continue preparing for a fair trial in this matter. Toward that end, we look forward to cooperating with you Friday morning at our offices.

Miss Goldstein and I agreed that the inspection would take place at my offices instead of Trump so as to not have to unnecessarily totally disrupt the Trump necessary business routine. I would assume that by your demand in your letter to inspect the materials at Trump offices that Miss Goldstein neglected to inform you of our oral agreement to the contrary.

EXHIBIT 5 We are ready to provide you with over 1,000 files Friday on both old and current tenants of Trump. Because Trump cannot

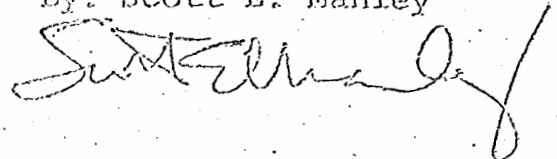
function at all with all of its current leases and files out of its offices, we will have to work out a schedule whereby as soon as you have completed inspecting and copying this very substantial amount of material that this material will be returned to the Trump office and additional material will be sent to our offices for your inspection.

With regard to the depositions of further Trump personnel tentatively scheduled to begin on June 18, I already have advised the Government that this date is impossible as both Mr. Cohn and myself will still be on trial before Justice Gomez in the Supreme Court of the State of New York in Cohen v. Cohen and Judge Gomez absolutely refuses to hear any application for even a half-day adjournment in that case. I will supply you with alternate dates as quickly as possible and I am sure we can come to an agreeable solution which will neither delay the matter unnecessarily for you nor prejudice the rights of the defendants by denying them the right to counsel in these proceedings. I would respectfully suggest that is completely unfair on your part to set forth ultimatums in the way of 3:00 deadlines to respond or else in view of the fact that you are completely aware of both Mr. Cohn and myself being on trial before Judge Gomez from 9:00 to 4:30 daily. We are completely ready to cooperate in discovery; all we require is a little time in which to assemble matter in view of our extremely heavy present litigation schedule.

Finally, I sincerely wish that at least from this point forward, that we could attempt to cooperate better in all of these matters. If your goal is to expedite discovery and to prepare for a fair trial for both sides as is ours, I think that this end would be better served by cooperation and observation of the basic courtesies normally extended between private counsel in litigation instead of continual threats by the Government and its treating the rules of civil procedure as some kind of undeviating Bible which cannot bend its timetables for even a few hours to promote the ends of justice.

Very truly yours,

SAXE, BACON, BOLAN & MANLEY
By: Scott E. Manley



SEM/ap
cc: Hon. Edward R. Neaher
United States District Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Honorable Vincent Catoggio
United States Magistrate
United States Courthouse
Eastern District of New York
225 Cadman Plaza East

Revised

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.
AUG 5 1974 ★
TIME A.M.
P.M.

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
FRED C. TRUMP, DONALD TRUMP)
and TRUMP MANAGEMENT, INC.,)
)
Defendants.)

CIVIL ACTION NO. 73 C 1529 (EN)

RESPONSE OF UNITED STATES
TO DEFENDANTS' MOTION OF
JULY 26, 1974

The United States of America, plaintiff, responding on its own behalf and on behalf of its attorney, Donna F. Goldstein, to defendants' "Notice of Motion" seeking an adjudication of contempt against said attorney and a "cease and desist" order against the United States, alleges as follows:

1. The United States denies each and every allegation of improper conduct by Donna F. Goldstein or by any other representative of the United States in connection with the interviews of Carol R. Falcone, Thomas Miranda, Paul Ziselman, Paula Ziselman, or any other prospective witness or other person in this case.

2. The United States alleges that said allegations of improper conduct, including allegations of threats and other devices to influence the testimony of prospective witnesses, are false and scurrilous, and consequently constitute an abuse of the processes of this Court.

WHEREFORE the United States prays as follows:

1. That expedited discovery be had with respect to the allegations of misconduct by the United States and its attorney;

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2. That depositions taken during said discovery be supervised by a master;

3. That a full evidentiary hearing be held before this Honorable Court on August 16, 1974, as prayed for in defendants' Notice of Motion;


4. That following the evidentiary hearing, the allegations of misconduct by the United States and its attorney be stricken as scandalous, in accordance with Rule 12(f) of the Federal Rules of Civil Procedure, and the motions for contempt and a cease and desist order be in all respects denied; and

5. That following this evidentiary hearing, this Honorable Court determine whether there has been an abuse of its processes and, if so, enter any appropriate disciplinary or other Order.

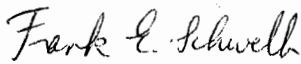
The United States further prays for such additional relief as the interests of justice may require, together with the costs and disbursements of this proceeding.

Respectfully submitted,

JAMES PORTER
Assistant U.S. Attorney
Chief, Civil Division



JAMES P. TURNER
Deputy Assistant Attorney General



FRANK E. SCHWELB, Chief
NORMAN P. GOLDBERG, Attorney
Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
	)	CIVIL ACTION NO. 73 C 1529 (EN)
Plaintiff,)	
)	
v.)	
)	
FRED C. TRUMP, DONALD)	
TRUMP and TRUMP MANAGEMENT,	)	<u>REPORT OF THE UNITED STATES</u>
INC.,	)	<u>TO THE COURT ON THE STATUS</u>
	)	<u>OF DISCOVERY</u>
Defendants.)	
<hr/>		

In accordance with the instructions of the Honorable Vincent Catoggio, United States Magistrate, plaintiff, United States of America, submits its report on the status of discovery in this action. On May 3, 1974, Magistrate Catoggio made reference to the obligation of defense counsel as well as the Court to expedite the action in accordance with 42 U.S.C. 3614, and rebuked defense counsel for not having done so.

I. DISCOVERY IN PROCESS : DELAYS AND DIFFICULTIES

A. Depositions

Prior to the hearing of May 3, 1974, plaintiff encountered substantial difficulties in taking any depositions because of defense counsel's continuous cancellations and rescheduling.

This activity resulted in a substantial waste of the time and resources of counsel for plaintiff, as described in detail in plaintiff's memorandum in support of its motion for sanctions, dated April 19, 1974, at pp. 4-6. Several notices of deposition were outstanding at the time of that hearing, but plaintiff agreed to postpone these until defendants had answered the interrogatories propounded to them in November of the previous year. Abbreviated and incomplete answers to these interrogatories were finally provided on May 16, 1974. (See pp. 10-13, infra). Thereafter, plaintiff attempted to reschedule depositions, as follows:

1. On May 28, 1974, Ms. Donna Goldstein, a new attorney for the plaintiff, replacing Ms. Elyse Goldweber, telephoned Mr. Scott Manley in order to advise him that the plaintiff was noticing depositions for June 18-20, 1974.*/ In deference to Mr. Cohn's busy schedule, Mr. Manley was provided with an opportunity to propose alternative dates within the next few days.

2. Between May 28 and June 3, Ms. Goldstein telephoned Mr. Manley on at least three occasions to discuss the contemplated depositions. Mr. Manley proposed no alternative dates on the two

*/ These depositions were noticed on May 30, 1974.

occasions he was reached, and failed to call back in response to the message left on the third call.

3. On June 5, 1974, Ms. Goldstein sent a special delivery letter to Mr. Manley indicating that the government intended to proceed with the depositions as noticed, since no alternative dates had been offered.

4. On June 11, counsel for the plaintiff received a letter from Mr. Manley dated June 6 cancelling these depositions on the grounds that they conflicted with Mr. Cohn's schedule, but promised to suggest alternative dates the following week.*/

5. Counsel for plaintiff periodically visited the offices of defense counsel between June 14 and June 28, 1974, as a part of the records inspection described below. On June 26, after an inquiry by counsel for plaintiff, Mr. Manley stated that firm dates for the taking of depositions would be provided no later than July 2, and that in no event would these dates be later than the third week in July.

6. Having heard nothing from defense counsel by July 3, Ms. Goldstein telephoned Mr. Manley and was told that he still could not provide firm dates for the scheduling of depositions.

*/ This letter included a list of those employees scheduled to depose who were no longer employed by the defendants. This information, which plaintiff had been attempting to secure for many months, was to be given to the plaintiff no later than May 13, 1974, at the direction of Magistrate Catoggio at the May 3 hearing.

Mr. Manley promised, however, to call back on July 8 with recommended dates.

7. Mr. Manley did not call back on July 8, or for that matter, thereafter. On July 9, plaintiff served notice on defense counsel of the scheduling of depositions of eleven agents of Trump Management for July 30 - August 2, 1974. Subpoenas were served on each of the prospective deponents.

8. On July 26, 1974, Mr. Cohn, by telephone, advised Mr. Goldberg that the eleven scheduled depositions would have to be taken on July 30-31 only, since his schedule could not permit him to attend at any other time. Yielding to these time strictures, plaintiff took the depositions of eight agents on July 30 and 31, 1974. The first attempt to take these depositions had been made on March 19, 1974.

B. Inspection of Defendants' Records

On May 6, 1974, plaintiff served and filed a Rule 34 Request for Production of Documents on defense counsel Roy Cohn.*/
On May 15, 1974, Mr. Scott Manley, an associate of Mr. Cohn, telephonically requested that plaintiff's former attorney Ms. Elyse Goldweber forward to him a copy of the Request, saying that he knew nothing about it. This was done immediately.

*/ See Appendix A.

On May 28, 1974, during the course of one of their discussions about the scheduling of depositions, Ms. Goldstein reminded Mr. Manley of the proposed records inspection. Mr. Manley again stated that he knew nothing about the proposed inspection, and requested that Ms. Goldstein forward him another copy of the Request, which she did on the same day.*/

On at least two occasions between May 28 and June 3, Ms. Goldstein telephonically reminded Mr. Manley that representatives of the plaintiff would travel to New York on June 12, 1974, to inspect records as noticed. At no time during these conversations did Mr. Manley express any objection to the inspection or indicate that the records would not be made available at the designated time and place. Defendants also filed no objection to the records inspection, nor did they suggest any alternative site or date, or any limitation on what the United States would be permitted to inspect.

On June 12, three attorneys for the United States and two law clerks arrived at 10:00 a.m. at the offices of Trump Management, 2611 West 2nd Street, Brooklyn, New York, in accordance with the notice of records inspection. The Trump agents and employees present expressed surprise at their arrival.

*/ See Appendix B.

Mr. Stuart Hyman, controller of Trump Management, asked Mr. Henry Bracht1, Assistant United States Attorney, into his office. The other attorneys, Norman Goldberg and Donna Goldstein, and the assistants, Frank Phillips and Larry Rogers, law clerks at the United States Attorney's office, remained in the anteroom of the Trump offices. After approximately ten to fifteen minutes, Mr. Hyman asked the remaining representatives of the United States into his office and stated that he had not been informed that a records inspection was scheduled. He further stated that he could not produce any records until he contacted defendants' counsel and that he had been unable to reach counsel. Ms. Goldstein placed a call to Mr. Manley from Mr. Hyman's office. Mr. Manley was not in and a message was left to have Mr. Manley contact Ms. Goldstein at the United States Attorney's office. Plaintiff's representatives then left the Trump Offices and returned to the United States Attorney's office. Contrary to the allegations in Mr. Roy Cohn's affidavit, there was no banging on doors, overreaching, or other improper conduct by any of the representatives of the United States. Mr. Cohn was not present at the Trump offices, nor were any calls placed to the United States Attorney's office by defendants or their counsel complaining about the conduct of representatives of the plaintiff.

On June 12, 1974, at approximately 11:30 a.m. Mr. Manley telephoned Ms. Goldstein at the office of the United States Attorney for the Eastern District of New York and, for the first time, expressed his objections to Plaintiff's Request. He claimed that he had communicated these objections earlier. Ms. Goldstein informed him that no objections had been transmitted, either formally or informally, and that if defendants would not permit a records inspection to begin, as noticed, plaintiff would have no recourse but to apply to the Court once again for appropriate sanctions under Rule 37(d) of the Federal Rules of Civil Procedure. After some negotiations between counsel, plaintiff was authorized to begin inspecting defendants' records on Friday, June 14, 1974, at the law offices of defense counsel.

When plaintiff's representatives arrived at these offices on the morning of June 14, Mr. Fanelli, a clerk to Mr. Manley, handed them a letter from Mr. Manley which characterized their conduct at the offices of Trump Management on June 12, as "descending upon the Trump offices with five stormtroopers . . . banging on the doors and demanding to be allowed to swarm haphazardly through all the Trump files and to totally disrupt their daily business routine." (See Letter of Mr. Manley dated June 13, 1974, a copy of which was sent to this Court.) Counsel for plaintiff responded by a brief letter of June 14 denying the veracity of these rhetorical flourishes.

From Thursday, June 13, 1974, until the completion of the records inspection, counsel for plaintiff communicated almost exclusively with Mr. Fanelli since neither Mr. Cohn nor Mr. Manley was then available. On Tuesday afternoon, June 18, 1974, after 2-1/2 days of records inspection, Mr. Fanelli informed counsel for the plaintiff that records would not be available for inspection on the following day, June 19. However, Mr. Fanelli did give assurances that records would be available on Thursday and Friday, June 20 and 21, beginning at 10:00 a.m.

On June 20, however, the records were not made available at 10:00 a.m., as agreed. At 11:30 a.m., Mr. Fanelli informed plaintiff's counsel that the automobile carrying the records had broken down and that records would not be produced until 2:00 p.m.^{*/} Records were inspected on Thursday afternoon, June 20, and Friday, June 21. On June 19 and 20 alone, plaintiff's two counsel from Washington lost a day and a half of their time for no purpose as a result of these cancellations.

^{*/} When the records arrived on Thursday afternoon, the driver of the automobile, Mr. Simon Wiss, recounted to plaintiff's counsel the many errands he had to run for Trump Management by auto that morning, and extolled the virtues and dependability of the automobile carrying the records.

On Friday, June 21, 1974, Mr. Fanelli indicated that additional records could not be available for inspection until Wednesday, June 26, 1974. Counsel for plaintiff returned to Washington, D. C. and travelled back to New York to complete the records inspection on June 26, 27, and 28, 1974. Thus, during a period of thirteen working days, records were made available for a little over seven days. Not only time but travel money could have been saved had these interruptions not occurred.

* * * *

We are reluctant to belabor the Court with the foregoing details. We believe, however, that while each item individually may be relatively minor, the total impact has been to waste a large amount of the time and money of counsel for the United States. While it is petty harassment, it seems to us harassment none the less, quite out of keeping with Magistrate Catoggio's directions of May 3. Moreover, in view of the repeated efforts to deal with defense counsel about this records inspection, the allegations in defendants' papers that the United States tried to "by-pass" counsel are without foundation in fact.

II. 'DEFENDANTS' FAILURE TO PROVIDE DISCOVERABLE INFORMATION
REQUESTED BY PLAINTIFF

A. Defendants' Answers to Plaintiff's Interrogatories

Plaintiff's First Interrogatories to defendants were propounded on November, 1973, and were not answered or objected to for more than six months. On May 16, 1974, after two Orders of this Court directing defendants to answer the Interrogatories, defendants finally submitted their response. That submission consisted of slightly more than two pages.*/ In response to at least three interrogatories, defendants indicated that responses would be forthcoming by the following week (letter from Scott Manley of May 16, 1974)**/ but more than ten weeks since that promise was made, plaintiff is still waiting for defendants to complete their answers. As noted below, the information defendants have failed to provide goes to the heart of the case.

While this memorandum is not intended to be a substitute for a renewed Rule 37 motion dealing with the deficiencies of defendants'

*/ The unusual brevity and incompleteness of these responses may be explained, in part, by the fact that on May 15, 1974, one day before the interrogatories were due, defendant Donald Trump called former Departmental attorney Goldweber and indicated that he had only recently heard about his obligation to answer the interrogatories and wanted to know if there were any penalties for filing untimely answers. Ms. Goldweber referred Mr. Trump to his counsel.

****/ See Appendix C.**

responses to Interrogatories, and while we wish to reserve our right to file such a motion in the future, we believe that a brief examination of some of defendants' responses should be brought to the Court's attention.

(a) Interrogatory 5, requests 16 items of basic information for each apartment complex owned or managed by defendants. The information sought includes a racial breakdown of the tenant force of each building. In response, defendants referred to two documents which defendants claimed to have previously furnished to plaintiff. One of those documents had in fact been furnished to plaintiff. Plaintiff has no record of ever having received the other, which is purported to be a memorandum to Ms. Goldweber dated March 15, 1973. The document that was furnished to plaintiff merely contains a list of the Trump buildings and their superintendents as of October, 1972, almost two years ago. In eight months, defendants have surely had the time to write to their superintendents and to provide racial occupancy information in at least approximate form, particularly since Donald Trump characterized the racial makeup of Trump buildings

in an affidavit December 11, 1973, but they have made no attempt to do so. Statistical information of this kind is, of course, important in cases of this kind. See United States v. Real Estate Development Corporation, 347 F. Supp. 776 (N.D. Miss. 1972). Defendants have an obligation to secure such information from their superintendents. City of Philadelphia v. Westinghouse Electric Corp., 205 F. Supp. 831 (E.D. Pa. 1962).

(b) In response to Interrogatory 7, which requests the name, address, race, job title, job location and dates of employment for each and every employee of Trump, the defendants attached Exhibit 1 to their Answers. That Exhibit, however, contains only the last name and first initial of black and Puerto Rican employees of the defendants - facts insufficient to locate them for interview - and none of the other requested information was provided.*/

*/ Plaintiff has subsequently secured some of this information during the inspection of defendants' records. The identities of former employees, of course, constitute critical information. See United States v. Youritan Construction Corp., 370 F. Supp. 643 (N.D. Calif. 1973), and cases there cited, holding that proof of discriminatory instructions to employees meets the Attorney General's burden of proof.

The names of black tenants (Interrogatory 11), complaints about racial discrimination (Interrogatory 13) and the identities of tenants who secured apartments after complaining or threatening to complain about racial policies (Interrogatory 14) have never been provided by defendants.

B. Failure to Produce Rejected Applications

In Plaintiff's Interrogatories to Defendants served on November 7, 1973, plaintiff first requested that defendants furnish certain information relating to rejected applicants. On March 28, 1974, defendant Donald Trump testified, on deposition, that there was no particular policy with respect to either retaining or destroying these records and that some of these records may still exist. (Dep. p. 33). Mr. Trump also stated that some of these records may also have been destroyed since the Interrogatories were propounded (Id., p. 99), so that defendants' capacity to answer those interrogatories calling for information as to rejected applicants was impaired, if not destroyed, by their own conduct. During the

taking of this deposition, Mr. Cohn did, however, provide a measure of assurance that his clients would preserve all relevant records, including those pertaining to rejected applicants. (Id., pp. 99-100).

During the June 1974 records inspection and after repeated requests for the production of rejected applications, plaintiff was provided with a copy of a memorandum from Mr. Stuart Hyman, controller of Trump Management, stating that "effective March 28, 1974" there were no rejected applications.*/ Whatever the meaning of Hyman's memorandum, it taxes credulity to suggest that between March 28, 1974 - the day that the defendants are supposed to have stopped destroying these applications - and June 28, 1974, the defendants, who have 2500 - 3000 vacancies a year (Hyman Dep. p. 73) and who have repeatedly testified through their agents that applications are closely reviewed, have not rejected a single application.**/

Defendants now go even further than Mr. Hyman's memorandum and claim that there have never been any rejected applications. Minerva Gilbert, office manager for the past seven years, who has the

*/ See Appendix D.

**/ On July 3, 1974, we sent a letter to Mr. Manley reiterating our concern that none of the rejected applications had been produced and requesting that the defendants furnish us with an explanation for the reproduction of these documents prior to this hearing but no explanation has been forthcoming.

responsibility for approving or rejecting applications, testified during the depositions taken on July 30 and 31 that she cannot recall ever having rejected a single application for tenancy. Each of the six superintendents*/ whose depositions were taken on July 30 and 31 likewise stated that even though they accepted applications from anyone, they have never had an application rejected by the main office. The six superintendents whose depositions were taken were also served with subpoenas directing them to bring certain documents including "records of the payment of deposits in the possession, custody or control of the deponent." Only one superintendent produced these records (Raymond Travis), the others stating that no such records existed.

Mr. Travis, superintendent at Wedgewood Hall Apartments for the past five years, also produced a book of receipts which he described as having been supplied by the main office when he was first hired as superintendent. Mr. Travis testified that he was instructed to give a receipt to each applicant when a deposit is submitted with the application. A number of these receipts are marked "refunded." While early in his deposition Mr. Travis stated that he has never had an application rejected, he later explained

*/ Mr. Skender Fici, Mr. Guido Lara, Mr. Walter Rohr, Mr. Daniel Borth, Mr. Joseph Zecher and Mr. Raymond Travis.

that "refunded" signifies applications which were rejected by Ms. Gilbert. In Mr. Travis' receipt book alone, which is used for an apartment complex of only approximately 94 units, there were at least six such "refunded" receipts since the date of service of plaintiff's interrogatories in November 1973 requesting such information. Accordingly, it is apparent that rejected applications exist but that information about them has not been made available to plaintiff.

CONCLUSION

While some progress has been made in discovery following the hearing before Magistrate **Catoggio**, defendants remain in substantial noncompliance with their responsibilities in relation to discovery. Some of the noncompliance involves material critical to the disposition of this case, while other conduct has been of a harassing and disruptive nature. Even aside from the false and scurrilous charges assembled by defendants against one of plaintiff's counsel,* there has been sufficient resistance to the orderly conduct of discovery to warrant consideration of a new motion

*/ On or about July 26, 1974, defendants noticed a motion for a contempt citation against Ms. Goldstein. While we generally avoid the argument by inflammatory rhetoric which has characterized defense counsel's submissions, we can only say that, for reasons set forth in our other papers filed herewith, these charges are utterly fantastic.

for sanctions after present discovery proceedings have been completed.

Respectfully submitted,

Frank E. Schwelb

JAMES PORTER
Assistant United States
Attorney
Chief, Civil Division

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Norman P. Goldberg

NORMAN P. GOLDBERG
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Donna F. Goldstein

DONNA F. GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

APPENDIX A

T. 5-6-74

MAY 6 1974

JSP:FES:ESG:cmk
DJ 175-52-28

Roy M. Cohn, Esq.
Saxe, Bacon, Bolan and Manley
39 East 68th Street
New York, New York 10021

Re: United States v. Fred C. Trump, et al.,
Civil Action No. 73 C 1529

Dear Roy:

Please find enclosed two copies of Plaintiff's
Request for Production of Documents.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

cc: Records
Chrono
Goldweber
Trial File
Hold

By:
ELYSE S. GOLDWEBER
Attorney
Housing Section

APPENDIX B

T. 5/28/74
JSP:DG:mlp
DJ.175-52-28

MAY 28 1974

Scott Manley, Esq.
Saxe, Bacon, Bolan & Manley
39 East 68th Street
New York, New York 10021

Re: United States v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Dear Mr. Manley:

In response to our telephone conversation of May 28, 1974, please find enclosed a copy of Plaintiff's Request for Production of Documents, scheduled to commence on June 12, 1974. Also, please note the attached proposed schedule for continuing depositions of the agents and employees of Trump Management, Inc. Formal notice will be forthcoming. These depositions had been previously scheduled for April 18 - April 22, 1974.

Thank you for your cooperation in this matter. I look forward to hearing from you soon to confirm the attached discovery schedule.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By:

cc: Records
Chrono
Ms. Goldstein ✓
Trial File
Henry Bracht1

DONNA GOLDSTEIN
Attorney
Housing Section

APPENDIX C

Saxe, Bacon, Bolan & Manley

39 EAST 68TH STREET
NEW YORK, NEW YORK 10021

JOHN GODFREY SAXE (1909-1953)
ROGERS H. BACON (1919-1962)

(212) 472-1400

ROY M. COHN
SCOTT E. MANLEY (ADMITTED ILLINOIS AND INDIANA)
MICHAEL ROSEN

DANIEL J. DRISCOLL

HAROLD SCHWARTZ
MELVYN RUBIN

JEFFREY A. SHUMAN
LORIN DUCKMAN

THOMAS A. BOLAN

COUNSEL

DOCKETED

MAY 22 1974

May 16, 1974 CIVIL RIGHTS

Miss Donna Goldstein
United States Department of Justice
Washington, D. C. 20530

Re: United States v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Dear Miss Goldstein:

Enclosed please find a copy of defendants' answers to plaintiff's interrogatories. It is my understanding from speaking with Miss Goldweber that you are taking her place on this case since she has left to work in New York.

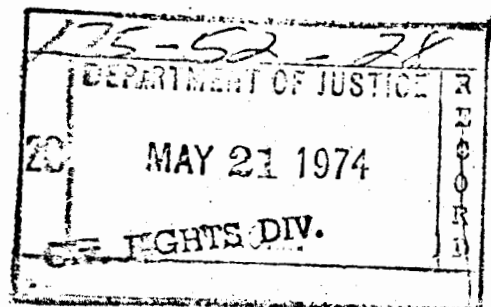
As you will note from our answers, most of the information requested by the Government in the interrogatories already has been supplied in the five examinations before trial which you already have completed. We could not make specific reference to page numbers due to the fact that the transcripts have not been completed. You will note that there are three questions requiring detailed information from records, which Stuart Eymen has been compiling and hopes to complete next week. We will supply you with this information as soon as Mr. Eymen completes same.

Very truly yours,

Scott E. Manley
Scott E. Manley

SEM/ew

cc: Hon. Vincent Catoggio
United States Magistrate
Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201



EN

6/27/74

To: David Smelli

From: ~~Mark Rappier~~

Rejected Applications

Effective 3/20/74 we actually had no rejected applications.

However the enclosed file covers applications of prospective tenants who

Cancelled out

Mark

CERTIFICATE OF SERVICE

I certify that I have on this date mailed copies of
the following documents, postage prepaid, to:

Roy Cohn, Esquire
39 East 68th Street
New York, New York 10021

1. Response of the United States to
Defendants' Motion of July 26, 1974
2. Supporting affidavits
3. Order to Show Cause (proposed)
4. Memorandum of the United States
5. Plaintiff's Interrogatories to Defendants
6. Report of the United States to the Court
on the Status of Discovery

August 5, 1974


Counsel for Plaintiff

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE

U.S. DISTRICT COURT E.D. N.Y.

AUG 6 1974

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 FRED C. TRUMP, DONALD TRUMP)
 and TRUMP MANAGEMENT, INC.,)
)
 Defendants.)

TIME A.M.
 P.M.

CIVIL ACTION NO.
 73 C 1529 (EN)

ORDER TO SHOW CAUSE

The United States having applied to this Court by affidavit for an Order to Show Cause, and it appearing that a hearing is scheduled before this Court on August 16, 1974 to determine motions involving alleged misconduct by one of the attorneys in this action, which alleged misconduct is denied; and it further appearing that expedited discovery is necessary and appropriate, so that this motion may be expeditiously determined in accordance with 42 U.S.C. 3614; and it further appearing that the nature of the respective parties' allegations justifies judicial supervision of depositions relating to the pending motion; and the Court having considered the pertinent submissions,

NOW, THEREFORE, upon the affidavit of FRANK E. SCHWELB and for good and sufficient reason,

IT IS HEREBY ORDERED that defendants show cause, if any there be, in the chambers of this Court at 225 Cadman Plaza, Brooklyn, New York, on August 8, 1974, at 2:00 P.M., or as soon thereafter as counsel may be heard, why

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(1) defendants should not be required to answer plaintiff's interrogatories with respect to the pending motion within five days of service thereof; and

(2) the depositions with respect to this motion should not be conducted under the supervision of the Court.

IT IS FURTHER ORDERED that service upon counsel for defendants shall be done by *personal service* no later than *August 6, 1974, at 1:00 P.M.*, and that this shall constitute good and sufficient service.

IT IS SO ORDERED this *5th* day of August, 1974.

Edward R. Neaher

United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
) CIVIL ACTION NO. 73 C 1529 (EN)
)
 v.)
) MEMORANDUM OF THE UNITED STATES IN
 FRED C. TRUMP, DONALD TRUMP) SUPPORT OF THE ENTRY OF AN ORDER
 and TRUMP MANAGEMENT, INC.,) TO SHOW CAUSE
)
 Defendants.)
 _____)

On or about July 26, 1974, defendants filed a Notice of Motion seeking an adjudication of contempt against Donna F. Goldstein, a Department of Justice attorney assigned to this case, and a "cease and desist" order against the United States. In five affidavits including that of defense counsel Roy Cohn, defendants allege that Ms. Goldstein has, among other things, threatened and sought to influence the testimony of prospective witnesses in this case. The defendants have requested a hearing on this matter on August 16, 1974.

The United States has filed a response supported by affidavits of Frank E. Schwelb, Chief of the Housing Section, Civil Rights Division, Department of Justice, and of Ms. Goldstein denying each and every allegation of improper conduct. In preparation of the

hearing on August 16, 1974, the United States has noticed the depositions of several of the affiants who have made accusations against Ms. Goldstein, as well as of defendant Donald Trump. Brief interrogatories have also been served on counsel for the defendants to determine the pertinent details of any alleged incident of misconduct by plaintiff's attorneys. In addition, the United States has applied for an Order to Show Cause why

(1) defendants should not be required to answer plaintiff's interrogatories with respect to the pending motion within five days of service thereof; and

(2) the depositions should not be supervised by an officer of the Court.

A. Defendants Should Be Required to Respond to the Interrogatories Within Five Days of Service.

Rule 33(b) of the Federal Rules of Civil Procedure vests the Court with discretion to shorten the time permitted for responding to Interrogatories. In this case, defendants have made serious accusations against the United States and, in particular, against one of its counsel, Donna F. Goldstein. They seek to bring the matter on for hearing on August 16, 1974. The United States is entitled to take the depositions of several persons who have information about these charges and to otherwise prepare for the hearing, and cannot do so unless their identities are disclosed.


Defense counsel Roy Cohn in his affidavit indicated that only some of the persons who had complained of attorney Goldstein's behavior had signed statements for submission with defendants' pleading. In order to prepare for the hearing and assure that Ms. Goldstein's rights are fully protected, plaintiff is entitled to advance knowledge of the purported case against her. Plaintiff's interrogatories are brief and can be responsively answered in a short time, and there is no reason why an immediate response cannot be forthcoming.

B. The Depositions Should Be Supervised by an Officer of this Court.


The basic thrust of defendants' motion is that plaintiff's counsel have unduly influenced the testimony of prospective witnesses. Plaintiff contends, however, that the allegations are false and have the effect of preventing the expedited consideration of the case which the statute requires. 42 U.S.C. 3614. The affidavits of two of plaintiff's counsel -- Elyse Goldweber and Donna F. Goldstein -- disclose that at least one of the prospective deponents -- Thomas Miranda -- has on two separate occasions expressed fear of reprisal from defendants if he should testify to the discriminatory practices of which he is aware. Magistrate Cattogio has found the defendants to have been in noncompliance with discovery procedures.

With the issue herein being whether either side has used unlawful tactics vis-a-vis witnesses, it is imperative that their sworn testimony be given without interference or pressure from any source. Accordingly, the depositions should be conducted before an officer of this Court. 4 Moore's Federal Practice §28.02, p. 1915; Fisher v. Harris, 61 F.R.D. 447 (S.D. N.Y. 1973); Shapiro v. Freeman, 38 F.R.D. 308 (S.D. N.Y. 1965); see also First Iowa Hydro Elec. Coop. v. Iowa-Illinois Gas and Elec. Co., 245 F. 2d 613 (8th Cir. 1957), cert. denied 355 U.S. 871 (1957).

JAMES PORTER
Assistant U.S. Attorney
Chief, Civil Division



JAMES P. TURNER
Deputy Assistant Attorney General



FRANK E. SCHWELB, Chief
NORMAN P. GOLDBERG, Attorney
Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
)	
Plaintiff,	)	CIVIL ACTION NO.
	)	73 C 1529 (EN)
)	
v.)	
)	
FRED C. TRUMP, DONALD TRUMP	)	<u>PLAINTIFF'S INTERROGATORIES</u>
and TRUMP MANAGEMENT, INC.,	)	<u>TO THE DEFENDANTS</u>
)	
Defendants.)	
)	

To Counsel for the Defendants:

The following interrogatories are addressed to you pursuant to Rule 33 of the Federal Rules of Civil Procedure and you are required to answer each interrogatory separately and fully, in writing, under oath, and to serve copies of your Answers on counsel for plaintiff within the time to be prescribed by the Court. The United States is applying to the Court for an Order that your time to respond be shortened to five days from the date of service.

1. Please state the name and address of each person known or believed by counsel for defendants, by the defendants or any of their officers, agents, or employees to have any information with respect to any alleged misconduct engaged in by Donna Goldstein, Esquire, or by any other representative of the United States in connection with the above-styled case.

2. With respect to each person identified in response to the preceding interrogatory, please provide the following information:

(a) The nature of the alleged misconduct by a representative of the United States alleged by such person;


(b) The time and date upon which such misconduct took place;

(c) The names and addresses of all persons who witnessed or who may have information about the incident;

(d) The means and date by which such information was brought to the attention of the defendants or their counsel; and

(e) A full description of the alleged wrongful conduct by the representative of the United States.

JAMES PORTER
Assistant U.S. Attorney
Chief, Civil Division



FRANK E. SCHWELB, Chief
NORMAN P. GOLDBERG, Attorney
Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA, : AFFIDAVIT OF
 : PERSONAL SERVICE
 Plaintiff, :
 : Civil Action
 -against- : No. 73 C 1529
 FRED C. TRUMP, DONALD TRUMP :
 and TRUMP MANAGEMENT, INC., :

Defendants. :
 : IN CHARGE
 : U.S. DISTRICT COURT
-----X

★ AUG 7 1974 ★
TIME A.M.
P.M.

STATE OF NEW YORK)
 : ss.:
COUNTY OF KINGS)

JOHN HUNTER, being duly sworn, deposes and says:

I am employed in the Office of the United States Attorney for the Eastern District of New York.

On August 6, 1974, at 12:00 Noon, I personally served an Order to Show Cause dated August 5, 1974, and related documents, on the offices of Saxe, Bacon, Bolan and Manley, Esqs., attorneys for defendants herein, located at 39 East 68th Street, New York, New York, by leaving a certified copy of said Order and copies of said related documents with Phyllis Goldman, a secretary in said office, and receiving a signed receipt therefore.

John Hunter

JOHN HUNTER

Sworn to before me this
6th day of August, 1974.

Evelyn Sommer

EVELYN SOMMER
Notary Public, State of New York
No. 24-4502158
Qualified in Kings County
Commission Expires March 30, 1975

X

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF
NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.
★ AUG 19 1974 ★

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
FRED C. TRUMP, ET AL.,)
)
Defendants.)
_____)

CIVIL ACTION NO. 73 P.M.C. 1529
TIME A.M.
P.M.

NOTICE TO TAKE DEPOSITIONS
UPON ORAL EXAMINATION

To: Roy Cohn, Esquire
Saxe, Bacon, Bolan & Manley
39 E. 68 Street
New York, New York 10021

Please take notice that commencing on the 22 day of August 1974, the plaintiff, United States of America, will take the depositions of the present and former agents and employees of Trump Management, Inc., whose names are set forth on the time schedule attached hereto as Appendix A, at the office of the United States Attorney, 225 Cadman Plaza East, Fifth Floor, in the Borough of Brooklyn, City of New York. These depositions will be upon oral examination pursuant to Rule 30 of the Federal Rules of Civil Procedure, before an officer authorized by law to administer oaths and take testimony. The oral examination will continue from day to day until completed.

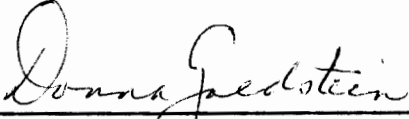
Also, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Documents designated in Appendix B attached

44

hereto are being subpoenaed to be produced by deponents at the taking of this deposition.

Dated this 16th of August, 1974.

DAVID G. TRAGER
United States Attorney



DONNA GOLDSTEIN
NORMAN P. GOLDBERG
Attorneys, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

APPENDIX A

1. Ms. Carol Falcone
2771 Stillwell Avenue
Brooklyn, New York
Thursday, August 22,
1974, 9:30 a.m.
2. Mr. Thomas Miranda
39-89 50th Street
Woodside, New York
Thursday, August 22,
1974, 1:00 p.m.
3. Mr. Louis Sarnell
Rental Agent
Shorehaven Apartments
8850 19th Avenue
Brooklyn, New York
Thursday, August 22,
1974, 3:00 p.m.
4. Mr. Al Weber
Superintendent
Edgerton Hall
178-10 Wexford Terrace
Jamaica, New York
Friday, August 23,
1974, 9:30 a.m.
5. Mr. Henry Neher
Superintendent, The Belcrest Apartments
162-15 Highland Avenue
Jamaica, New York
Friday, August 23,
1974, 11:00 a.m.
6. Mr. W. Volz
Superintendent
Winston Hall
178-60 Wexford Terrace
Jamaica, New York
Friday, August 23,
1974, 1:00 p.m.
7. Mr. John Raymond
Superintendent
Nautilus Apartments
1230 Avenue Y
Brooklyn, New York
Friday, August 23,
1974, 3:00 p.m.

APPENDIX B

The documents^{*}/ set forth below are being subpoenaed from the following agents and employees of Trump Management, Inc., to be brought at the time of each employee's deposition:

Mr. Louis Sarnell
Mr. Al Weber
Mr. Henry Neher
Mr. W. Volz
Mr. John Raymond

1. All completed leases, applications and records of payment of deposits in the possession, custody or control of the deponent.

2. All records, cards, waiting lists or other forms of documentation in the possession, custody or control of the deponent which contain the names, addresses and dates of contact of any prospective tenant or any individual who has applied, sought to apply or made inquiry concerning residing at an apartment building owned by the defendants.

3. All written documents, correspondence, forms or other writings in the possession, custody or control of the deponent which contain instructions, advice or stated or suggested policies or practices with respect to the rental of apartments or the processing of applications at the defendants' buildings.

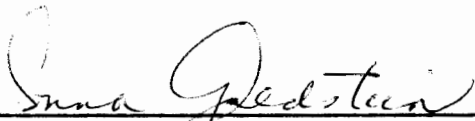
^{*}/ Documents previously made available to the government pursuant to the May 6, 1974, Request for Production of Documents need not be reproduced here.

CERTIFICATE OF SERVICE

I, Donna Goldstein, an attorney for plaintiff, hereby certify that I have served a copy of the foregoing Notice to Take Depositions upon Oral Examination on the defendants by mailing a copy, postage prepaid, to their attorney at the following address:

Roy Cohn, Esquire
Saxe, Bacon, Bolan & Manley
39 E. 68th Street
New York, New York 10021

This 15th day of August, 1974.



DONNA GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

AUG 20 1974
TIME AM.....
P.M.....

UNITED STATES OF AMERICA,)
)
Plaintiff,) CIVIL ACTION NO. 73 CIV 1529
)
v.)
) PLAINTIFF'S REQUEST FOR
FRED C. TRUMP, et al.,) PRODUCTION OF DOCUMENTS
)
Defendants.)
_____)

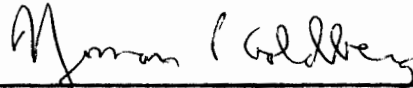
Plaintiff hereby requests, pursuant to Rule 34 of the Federal Rules of Civil Procedure, that defendants produce and permit plaintiff to inspect and copy the documents and records listed and described in Attachment A to this request.

In accordance with the discovery deadline set by Magistrate Vincent A. Catoggio on August 8, 1974, it is requested that the aforesaid production shall commence on the 29th day of August, 1974, at 10:00 a.m. at the rental office of Ocean Air Apartments, 725 East Chester Street, Norfolk, Virginia and that the aforesaid production shall continue at such other offices of Trump Management, Inc. as necessary to inspect and copy the requested documents and records, and that the documents and records shall remain available until such inspection and copying can reasonably be completed.

45

Inspection, copying and photographing will be performed by or under the supervision of an attorney of the United States Department of Justice.

Respectfully submitted,



HENRY A. BRACHTL
Assistant U.S. Attorney
Eastern District of N.Y.
225 Cadman Plaza
Brooklyn, New York

DONNA F. GOLDSTEIN
NORMAN P. GOLDBERG
Attorneys, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Attachment A

LIST OF DOCUMENTS AND RECORDS
SOUGHT TO BE PRODUCED FOR
INSPECTION AND COPYING

The records and documents listed below are requested for the following apartment buildings owned and/or managed by Trump Management, Inc.:

1. The Hague Apartments, Norfolk, Virginia
2. Pembroke Apartments, Norfolk, Virginia
3. Ocean Air Apartments, Norfolk, Virginia
4. Any other apartment buildings owned and/or managed by Trump Management, Inc. in Norfolk, Virginia.

A. Tenant files containing leases, applications, receipts of payments, correspondence or any other documents relating to the tenancy of all individuals residing at the apartment complex since January 1, 1969.

B. All applications for tenancy which have been rejected or which have been cancelled, since January 1, 1969.

C. All waiting lists or other forms of documentation containing the names of individuals who have expressed an interest at living at the apartment complex since January 1, 1969.

D. All written instructions, memoranda of oral instructions, correspondence, or other written records or documents to agents or employees of said defendant or to other persons, organizations, or agencies concerning the procedures and standards to be followed by such persons with respect to

the rental of dwellings to any person, including black persons, and the treatment to be accorded prospective tenants of dwellings, including black prospective tenants of dwellings since January 1, 1969.

E. All correspondence, agreements and other documents or papers, or communications which make reference to the Fair Housing Act, or to discrimination or nondiscrimination in rentals, including correspondence, documents, memoranda and papers, formal and informal, reflecting or alleging racial discrimination in housing by defendants or any of them, such documents to be produced irrespective of the merit or lack of merit of the allegation and irrespective of the formality or informality of the complaint.

F. All records, payroll reports, contracts, W-2 forms, cancelled checks and other documents which contain the name, address, race, position and date of employment of any rental agents or other employee employed by the defendants at any time since January 1, 1968.

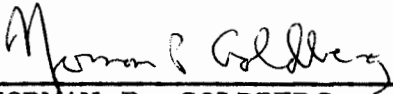
G. All receipt books or other documents maintained since January 1, 1969, which contain records of payment of deposits for the rental of apartments.

CERTIFICATE OF SERVICE

I, Norman P. Goldberg, an attorney for the plaintiff, hereby certify that I have served a copy of the foregoing Request for Production of Documents on the defendants by mailing a copy, postage prepaid, to their attorney at the following address:

Roy M. Cohn, Esq.
Saxe, Bacon, Bolan and Manley
39 East 68th Street
New York, New York 10021

This the 13th day of August, 1974.



NORMAN P. GOLDBERG
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D. N.Y.

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

★ AUG 20 1974 ★

TIME A.M.....
P.M.....

UNITED STATES OF AMERICA,)	
)	
Plaintiff,	)	CIVIL ACTION NO. 73 CIV 1529
)	
v.)	
	)	<u>PLAINTIFF'S REQUEST FOR</u>
FRED C. TRUMP, et al.,	)	<u>PRODUCTION OF DOCUMENTS</u>
)	
Defendants.)	

Plaintiff hereby requests, pursuant to Rule 34 of the Federal Rules of Civil Procedure, that defendants produce and permit plaintiff to inspect and copy the documents and records listed and described in Attachment A to this request.

In accordance with the discovery deadline set by Magistrate Vincent A. Catoggio on August 8, 1974, it is requested that the aforesaid production shall commence on the 26th day of August, 1974, at 10:00 a.m. at the law offices of Saxe Bacon, Bolan & Manley, 39 E. 68 Street, New York, N.Y., and that records shall remain available until such inspection and copying can reasonably be completed.

Inspection, copying and photographing will be performed by or under the supervision of an attorney of the United States Department of Justice.

Respectfully submitted,

DONNA F. GOLDSTEIN
NORMAN P. GOLDBERG
Attorneys, Housing Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530

HENRY A. BRACHTL
Assistant U.S. Attorney
Eastern District, N.Y.
225 Cadman Plaza
Brooklyn, N.Y.

46

Attachment A

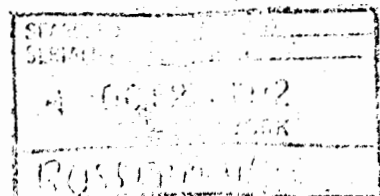
LIST OF DOCUMENTS AND RECORDS
SOUGHT TO BE PRODUCED FOR
INSPECTION AND COPYING

1. Current tenant files containing applications for tenancy, leases, correspondence between the tenant and the defendants or their agents, receipts of payments, or any other documents maintained by the defendants or their agents which relate to the tenancy of present tenants at the following apartment buildings owned by the defendants:
 - a. Chelsea Hall Apartments
 - b. Nautilus Hall Apartments
 - c. Ocean Terrace Apartments
 - d. Lincoln Shore Apartments

2. Receipt books or other documents which contain records of payment of deposits for the rental of apartments, maintained since January 1, 1969 for each of defendants' buildings situated in the New York metropolitan area listed in Attachment B.

ATTACHMENT B
KINGS COUNTY PROPERTIES

<u>NAME OF BUILDING</u>	<u>ADDRESS</u>	<u>SUPERINTENDENT</u>
Argyle Hall	400 Argyle Road Brooklyn, New York	Paul Rault
Chelsea Hall	8700 25th Avenue Brooklyn, New York	Al Caudalli
Nautilus Hall	1230 Avenue Y Brooklyn, New York	Gene Raymond
Ocean Terrace	2650 Ocean Parkway Brooklyn, New York	Guido Lara
Wedgewood Hall	2580 Ocean Parkway Brooklyn, New York	Ray Travis
Westminster Hall	405 Westminster Road Brooklyn, New York	Renee Connan
Lawrence Gardens	• 3301 Nostrand Avenue Brooklyn, New York	Ray LaMani
	• 3315 Nostrand Avenue Brooklyn, New York	
	• 3323 Nostrand Avenue Brooklyn, New York	
Sea Isle	• 3901 Nostrand Avenue Brooklyn, New York	Frank Finnegan
	• 3903 Nostrand Avenue Brooklyn, New York	
Laurence Towers	• 3280-3310 Nostrand Avenue Brooklyn, New York	Jim Gardner
Lincoln Shore Apts.	2727 Ocean Parkway Brooklyn, New York	Victor Besu
Fontainebleau Apts.	8855 Bay Parkway Brooklyn, New York	Skender Fici
Flatbush Patio #1	590 Flatbush Avenue Brooklyn, New York	Walter Rohr
Flatbush Patio #2	580 Flatbush Avenue Brooklyn, New York	Walter Rohr
Park Towers	370 Ocean Parkway Brooklyn, New York	Joe Reid
Falcon Apts.	8600-20th Avenue Brooklyn, New York	John Giordano
Fiesta Apts.	8635-21st Avenue Brooklyn, New York	John Rosado
Southampton Apts.	1429-1445-1461 Shore Pkwy. Brooklyn, New York	Real St. Cyr
Trump Village Sec. 1	2940 Ocean Parkway, Bkln., N.Y.	Joe Zecher
Trump Village Sec. 2	3000 Ocean Parkway, Bkln., N.Y.	Joe Zecher



Beach Haven Apts.

21 Building Locations at the following addresses:

2775 Shore Parkway, Brooklyn, N.Y.

2795 Shore Parkway, Brooklyn, N.Y.

Nine Nixon Court, Brooklyn, New York

49 Nixon Court, Brooklyn, New York

Nine Murdock Court, Brooklyn, N.Y.

29 Murdock Court, Brooklyn, New York

49 Murdock Court, Brooklyn, New York

675 Avenue Z, Brooklyn, New York

* Abe Rosenber,
(Rental Agent)

2612 West Street, Brooklyn, New York

2634 West Street, Brooklyn, New York

2662 West Street, Brooklyn, New York

2684 West Street, Brooklyn, New York

2681 West 2nd Street, Brooklyn, N.Y.

2661 West 2nd Street, Brooklyn, N.Y.

2631 West 2nd Street, Brooklyn, New York

2611 West 2nd Street, Brooklyn, N.Y.

621 Avenue Z, Brooklyn, New York

2612 West 2nd Street, Brooklyn, N.Y.

2632 West 2nd Street, Brooklyn, N.Y.

2662 West 2nd Street, Brooklyn, N.Y.

2682 West 2nd Street, Brooklyn, N.Y.

Shore Haven Apts.

32 Buildings Located at the following addresses:

2034 Cropsey Ave., Brooklyn, N.Y.

2035 Cropsey Ave., Brooklyn, N.Y.

2038 Cropsey Ave., Brooklyn, N.Y.

2040 Cropsey Ave., Brooklyn, N.Y.

2055 Cropsey Ave., Brooklyn, N.Y.

2058 Cropsey Ave., Brooklyn, N.Y.

2064 Cropsey Ave., Brooklyn, N.Y.

2074 Cropsey Ave., Brooklyn, N.Y.

2076 Cropsey Ave., Brooklyn, N.Y.

* Lou Sarnell
(Rental Agent)

2078 Cropsey Ave., Brooklyn, N.Y.

8331-20th Avenue, Brooklyn, New York

8341-20th Avenue, Brooklyn, New York

8851-20th Avenue, Brooklyn, New York

8361-20th Avenue, Brooklyn, New York

8369-20th Avenue, Brooklyn, New York

8871-20th Avenue, Brooklyn, New York

8891-20th Avenue, Brooklyn, New York

2040-20th Lane, Brooklyn, New York

2044-20th Lane, Brooklyn, New York

2049-20th Lane, Brooklyn, New York

2050-20th Lane, Brooklyn, New York

1483 Shore Parkway, Brooklyn, N.Y.

1485 Shore Parkway, Brooklyn, N.Y.

1487 Shore Parkway, Brooklyn, N.Y.

1489 Shore Parkway, Brooklyn, N.Y.

1491 Shore Parkway, Brooklyn, N.Y.

1493 Shore Parkway, Brooklyn, N.Y.

1535 Shore Parkway, Brooklyn, N.Y.

2070-20th Lane, Brooklyn, New York

2072-20th Lane, Brooklyn, New York

2074-20th Lane, Brooklyn, New York

2076-20th Lane, Brooklyn, New York

<u>NAME OF BUILDING</u>	<u>ADDRESS</u>	<u>SUPERINTENDENT</u>
Baldcrest Hall	102-15 Highland Ave., Jamaica, New York	M. LaRocca
Coronet Hall	172-70 Highland Ave., Jamaica, New York	A. Huhman
Clyde Hall	87-35 160th Street, Jamaica, New York	F. Candlen
Edgerton Hall	178-10 Wexford Terrace, Jamaica, New York	Horst Weber
Green Park Essex	143-03, 11, 23, 29 Barclay Ave. Flushing, New York	Ed Dier
Green Park Sussex	143-06, 10 Barclay Ave. Flushing, New York	Ed Dier
Highlander Hall	164-20 Highland Ave. Jamaica, New York	Joe Hache
Kendall Hall	41-10 Bowne Street Flushing, New York	T. Miranda
Park Briar Apts.	110-45 Queens Blvd. Queens, New York	Gil Rodgers
Saxony Hall	87-15 160th Street Jamaica, New York	K. Marscheider
Sunnyside Towers	45-01 39th Avenue Sunnyside, New York	K. Musijtschuk
Sussex Hall	160-05 Highland Avenue Jamaica, New York	E. Pajumae
Wexford Hall	86-75 Midland Parkway Jamaica, New York	Milan Matijevick
Wilshire Hall	182-30 Wexford Terrace Jamaica, New York	F. Hall
Winston Hall	178-60 Wexford Terrace Jamaica, New York	W. Volz

STATEN ISLAND, RICHMOND COUNTY, PROPERTIES

Grymes Hill	22 Arlo Road Richmond, New York	* Clara Jacobs
Tysens Park Sec. 1	655 Tysens Lane Richmond, New York	* Francis Guard
	675 Tysens Lane Richmond, New York	* Helen Wranne
	285 Mill Road, Richmond, New York	* Elizabeth Kaplan
Tysens Park Sec. 2	245 Mill Road, Richmond, N.Y. 255 Mill Road, Richmond, N.Y. 265 Mill Road, Richmond, N.Y.	
Tysens Park Sec. 3	20 Ebbetts Ave., Richmond, N.Y. 30 Ebbetts Ave., Richmond, N.Y.	

* Denotes Rental Unit

Saxe, Bacon, Bolan & Manley

39 EAST 68TH STREET
NEW YORK, NEW YORK 10021

JOHN GODFREY SAXE (1909-1953)
ROGERS H. BACON (1919-1962)

(212) 472-1400

THOMAS A. BOLAN
COUNSEL

ROY M. COHN
SCOTT E. MANLEY (ADMITTED ILLINOIS AND INDIANA)
MICHAEL ROSEN
DANIEL J. DRISCOLL
HAROLD SCHWARTZ
MELVYN RUBIN
JEFFREY A. SHUMAN
LORIN DUCKMAN

August 20, 1974

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ SEP 5 1974 ★

TIME A.M.....
P.M.....

Hon Vincent Cattagio
United States Magistrate
Federal Court House
225 Cadman Plaza East - 2nd Floor
Brooklyn, New York

Re: U.S. v. Trump - Civil Rights Case

730/529

Dear Judge Cattagio:

Following the helpful conference with Your Honor, and your direction that discovery and depositions be completed by September 1, 1974, the Government has done the following:

1. Noticed seven more depositions of employees and former employees.
2. Made new demands for production of large quantities of records.
3. In plaintiff's letter of August 12, 1974, for the first time since the filing of the complaint in the fall of 1973, it has now attempted to enlarge it by indirection to all units operated by the defendants in Norfolk, Virginia and surrounding areas - and demanding production of extensive records down south from these buildings nowhere before cited in this case - in the complaint or in the answers to interrogatories and bill of particulars furnished by the Government at the specific order of Judge Neaher, who found the complaint far too general, and directed specification of locations, dates, details, etc. of the charges of discrimination.

A ten page response to Judge Neaher's order filed by the Government on February 28, 1974, listing said locations and dates in detail - at no point mentioned directly or indirectly any units outside the Eastern District, or specifically, any units in Virginia. To attempt on the eve of conclusion of discovery

Hon. Vincent Cattagio
Page Two

in a priority case to suddenly ring in locations never before alleged despite Judge Neahen's order seven months ago to name locations, is improper and unfair.

To expedite this matter, and even though plaintiff has already deposed 13 of our officers, employees, maintenance men, etc. - and even though the new seven depositions sought include those of former employees, and those whose statements could not legally bind us - we are willing to and hereby agree to all seven depositions; and to have them completed before September 1, 1974. As to the records, even though the new demands happen to include a series of records we already produced and others which are not relevant - again to expedite, we hereby agree to the production of all requested records - also before September 1, 1974.

The only item with which we are completely unwilling to comply is the production of records and information about some units in Virginia and elsewhere in the country outside the Eastern District, for the grounds previously stated. To document this in detail: The complaint was filed October 15, 1973. We moved to dismiss or to make more definite and certain on the grounds it told us nothing. On January 25, 1974, Judge Heahen heard argument. The minutes containing his comments and rulings are attached to this letter as "A" for Your Honor's convenience. We particularly refer Your Honor to pages 25 - 28, wherein Judge Heahen indicates that "location of buildings" must be specified (p.27) and pointed out the defendant's difficulty in meeting these charges because of the number of units involved "in New York" (p. 28). The Government's furnishing of locations and details pursuant to these directions of Judge Neahen came on February 28, 1974, and are also attached to this letter (as "C") along with our demand ("B"). At no point in the ten pages is a single location outside the Eastern District mentioned - and now, only days before conclusion of discovery, they seek for the first time to ring in units far away from this District, which would result in considerable delay and prejudice to the defendants in this priority case.

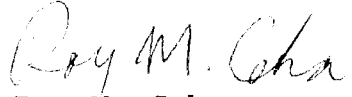
We agree to all seven new depositions, and to produce all requested records for all locations set forth in the Government's response to Judge Neahen's order. We ask Your Honor to exclude the attempt to expand this case to never before cited

Saxe, Bacon, Bolan & Mantley

Hon. Vincent Cattagio
Page Three

buildings in other areas of the country.

Respectfully yours,



Roy M. Cohn

RMC:sb

cc: Donna Goldstein
Civil Rights Division

Donald Trump

ADDRESS REPLY TO
UNITED STATES ATTORNEY
AND REFER TO
INITIALS AND NUMBER

United States Department of Justice

UNITED STATES ATTORNEY

EASTERN DISTRICT OF NEW YORK
FEDERAL BUILDING
BROOKLYN, N. Y. 11201

JDP:HAB:sm
File No.
730959

August 20, 1974

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E. D. N.Y.

★ SEP 5 1974 ★

TIME A.M.
P.M.

Honorable Vincent A. Catoggio
Magistrate, U. S. District Court
Eastern District of New York
U. S. Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

D/J Ref.: JSP:DFG
175-52-28

Dear Magistrate Catoggio:

On August 13, 1974, the plaintiff in the above styled lawsuit noticed a Request for Production of Documents under Rule 34 of the Federal Rules of Civil Procedure. This records inspection was to commence at apartment buildings owned by the defendants in Norfolk, Virginia, on August 29th in accordance with the discovery deadline which you directed at the August 8th meeting in your office.

I have been informed by Mr. Cohn that he intends to communicate to you by letter defendants' objections to any production of documents dealing with apartments outside of New York City. We believe that the complaint and related case law show that plaintiff is entitled to such discovery. Therefore, it is respectfully requested that a decision on this issue not be made until plaintiff submits a brief supporting its position.

Thank you for your consideration in this matter.

Very truly yours,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

BY: *Donna F. Goldstein*
DONNA F. GOLDSTEIN
Attorney, Housing Section

By [Signature]

Saxe, Bacon, Bolan & Manley

39 EAST 68TH STREET
NEW YORK, NEW YORK 10021

JOHN GODFREY SAXE (1909-1953)
ROGERS H. BACON (1919-1982)

(212) 472-1400

THOMAS A. BOLAN
COUNSEL

ROY M. COHN
SCOTT E. MANLEY (ADMITTED ILLINOIS AND INDIANA)
MICHAEL ROSEN

DANIEL J. DRISCOLL

HAROLD SCHWARTZ
MELVYN RUBIN
JEFFREY A. SHUMAN
LORIN DUCKMAN

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT, E.D. N.Y.

★ SEP 5 1974 ★

May 16, 1974
A.M.
P.M.

Miss Donna Goldstein
United States Department of Justice
Washington, D. C. 20530

Re: United States v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Dear Miss Goldstein:

Enclosed please find a copy of defendants' answers to plaintiff's interrogatories. It is my understanding from speaking with Miss Goldweber that you are taking her place on this case since she has left to work in New York.

As you will note from our answers, most of the information requested by the Government in the interrogatories already has been supplied in the five examinations before trial which you already have completed. We could not make specific reference to page numbers due to the fact that the transcripts have not been completed. You will note that there are three questions requiring detailed information from records, which Stuart Hyman has been compiling and hopes to complete next week. We will supply you with this information as soon as Mr. Hyman completes same.

Very truly yours,

SEM/ew

Scott E. Manley

cc: Hon. Vincent Catoggio
United States Magistrate
Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

49

IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF NEW YORK IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 FRED C. TRUMP, et al.,)
)
 Defendants.)
 _____)

★ SEP 11 1974 ★

CIVIL ACTION NO. 73 C 1529

PLAINTIFF'S SUPPLEMENTAL
ANSWERS TO DEFENDANTS'
INTERROGATORIES

The United States of America, plaintiff herein, by its undersigned attorney hereby supplements its Answers to Defendants' First Interrogatories. Plaintiff states that, while these Answers include all information presently available to it, some additional investigation based on records made available by defendants and on information recently furnished by the Urban League is continuing as expeditiously as possible. The Answers will be further supplemented as soon as such information has been secured and assembled.

Supplemental Answers to
Interrogatories 1 and 2

The following information constitutes evidence that defendants through their agents or employees have made apartments unavailable on account of race in the following ways:

1. The following information constitutes evidence of a discriminatory policy engaged in by the defendants in their operation of buildings outside of the New York area.

(a) On May 21, 1974, Mr. Ellis W. James (white) Head of Tidewater Fair Housing at 1802 N. Lakeland, Norfolk, Virginia, provided a Departmental representative with the following account:

50

In or about July 1971, Mr. and Mrs. Joseph Jones (black) informed James that they had been denied an apartment at the Oakdale Apartments in Norfolk. In early July, 1971, James and his wife went with Mrs. Jones to the complex. Mrs. Jones went into the office alone and spoke with the manager, Mrs. Morgan, about renting an apartment which had been advertised in the morning newspaper. Morgan stated that no apartments were available and indicated that an apartment might become available on August 3, 1971. Morgan indicated that Jones could submit an application if she so chose.

James and his wife immediately went into the office and spoke with Morgan about renting an apartment. Morgan stated that an apartment would be available in about a week and that they could rent the apartment immediately. In response to a question about the racial composition of the complex, Morgan stated that there was one black officer residing in the complex.

(b) In June 1973, Mr. Richard Foard (black) furnished the Norfolk office of the FBI with the following information of alleged discrimination:

Foard, who was assigned to the Naval Force Station in Norfolk, stated that in mid June, 1973, he went to the Ocean Air Apartments in Norfolk to apply for a two-bedroom apartment. Foard stated that he decided to apply there after learning from Mr. Eugene Sorel, a white male, that he had just obtained an apartment at Ocean Air for a reasonable price. At the rental office, Foard was advised to return in July or August and submit an application at that time. Foard was also told that he would have to return at that time to see the model apartment.

2. The New York Urban League furnished plaintiff with information about several tests conducted by the League to determine the racial practice at various buildings operated by defendants. Most of the tests indicate that racial discrimination is practiced at the respective buildings at which the tests were conducted. In the interest of fairness, we summarize all of the "tests" so that interested parties may draw their own conclusions.

(a) Belcrest Hall
166-05 Highland Hall
Jamaica

Ms. Stephanie Bush, a black employee of the Urban League, went to the Belcrest on July 12, 1974, to inquire about renting a one-bedroom apartment. Mr. H. Neher, the superintendent,

advised Bush that a one-bedroom rented at \$280.00 and would not be available until October. Neher suggested that Bush contact Kraham Realty Co. */ which would find her an apartment.

Ms. Susan Bernstein, a white employee of the Urban League, applied for an apartment at the Belcrest a short time after Bush left the building. Bernstein, was shown an apartment, told that the apartment rented for \$250.00, and that the apartment would be available on September 1.

(b) Saxony Hall
87-15 165 Street
Queens, New York

On July 12, 1974, Ms. Bush went to Saxony Hall to inquire about renting a one-bedroom apartment. Bush spoke with Supt. Kurt Marscheider about renting an apartment and was advised by him that none were available and that he did not know when one would become available.

*/ Kraham Realty Co., is presently the subject of a complaint brought by the New York City Commission on Human Rights alleging difference in treatment of home seekers based on race, and the "steering" of home seekers to different areas based on race.

Ms. Bernstein went to Saxony Hall a short time after Bush left the building and spoke with Marscheider about renting a one-bedroom apartment. Bernstein was shown a one-bedroom apartment, given a business card and told to call back in a week, at which time Marscheider would know when an apartment would be available.

(c) Clyde Hall
87-06 166 Street
Queens, New York

On July 24, 1974, Ms. Bush went to Clyde Hall to inquire about renting a one-bedroom apartment. Bush spoke with a woman who stated she was the superintendent. The woman advised her that there were no vacancies and none would be available for six months.

Ms. Bernstein went to Clyde Hall a short time after Bush left the building. Bernstein spoke with a woman, who stated that she was the superintendent, and was advised by her that only a studio apartment was immediately available. The woman advised Bernstein that a one-bedroom apartment would be available as soon as the estate of the recently deceased tenant of that apartment had been settled and the apartment had been painted. She stated, however, that the other "empties" in her building would have to be filled first. The woman added that because

there were so many "empties" in her building, that the apartment rentals were being handled by another Trump agent in the Trump building across the street, but that the same apartment could be rented from her at a less expensive price.

(d) Edgerton Hall
178-10 Wexford Terrace
Queens, New York

On July 9, 1974, Ms. Bush went to Edgerton Hall to inquire about renting a one-bedroom apartment that was advertised in the New York Times. Bush spoke to a doorman who said that the superintendent was on vacation and that there were no vacancies. The doorman gave her the name of the superintendent so that she could periodically check on vacancies. The following morning, at about 9:30 a.m., Bush returned and the same doorman as she met on the preceding day advised her that the superintendent was out. Bush returned that afternoon at about 2:30 p.m., at which time she met the superintendent. The superintendent informed her that he had just rented a one-bedroom apartment and that another one would not be available until the middle of August. The superintendent stated that he had a vacant

two-bedroom apartment. Ms. Bush was not shown an apartment.

Ms. Bernstein went to Edgerton Hall on the morning of July 9, 1974 and spoke with a doorman. The doorman advised her that the superintendent was out for the day, but that there was a vacant one-bedroom apartment. Ms. Bernstein returned the following day at about 2:00 p.m. and met the superintendent identified as Mr. Weber. Weber advised her that he had a one-bedroom, studio, and a four-room apartment available. Bernstein was shown a one-bedroom apartment and was told that the apartment would be available for August 1 at \$250 per month.

(e) Winston Hall
178-60 Wexford Terrace
Queens, New York

On July 9, 1974, Ms. Bush went to Winston Hall to inquire about renting a one-bedroom apartment that had been advertised in the New York Times. Bush spoke to the superintendent, Mr. Volz, who told her that a one-bedroom apartment had been rented on Saturday, July 6, 1974, and that there were no other vacancies.

Ms. Bernstein went to Winston Hall a short time after Bush departed to inquire about renting a one-bedroom apartment. A man who identified himself as the superintendent stated that he had just completed showing an available one-bedroom apartment to a woman and suggested that a studio apartment was also immediately available at \$195-200 per month. The superintendent then showed the studio apartment to her.

(f) The Highlander
164-20 Highland Avenue
Queens, New York

On July 12, 1974, Ms. Bush went to the Highlander to inquire about renting a one-bedroom apartment that had been advertised in the New York Times. At the building, Bush met a maintenance man who told her that he thought a studio apartment was vacant. Bush then met the superintendent and asked for a studio or one-bedroom apartment. She was told that a 4 1/2 room apartment was available at \$390 per month, but that there were no vacancies in a studio or one-bedroom and that none was likely to become available until January or February.

Ms. Bernstein went to the Highlander shortly after Ms. Bush left the building. Bernstein spoke to the superintendent and was told that there was only a 4 1/2 room apartment available at \$370 per month. Bernstein was told that there were no vacancies at the present time, but that vacancies usually occur in September.

(g) Sussex Hall
166-05 Highland Avenue
Queens, New York

On July 12, 1974, Ms. Bush went to Sussex Hall to inquire about renting a one-bedroom apartment. Bush spoke with the superintendent, Mr. Pajumae, who advised her that only a junior 3-room apartment was available at \$210 per month. Pajumae advised Bush that she could fill out an application and that she would be advised in about one week as to whether her application had been approved.

Ms. Bernstein went to the Sussex shortly after Bush had left the building. Bush asked to rent a one-bedroom apartment and Mr. Pajumae advised her that a one-bedroom was available at \$260 per month.

(h) Coronet Hall
172-70 Highland Avenue
Queens, New York

On July 9, 1974, Ms. Bush went to the Coronet to inquire about renting a one-bedroom apartment that had been advertised in the New York Times. Bush spoke to the superintendent who advised her that a studio was presently vacant and that a one-bedroom renting at \$270 per month would be available on August 1.

Ms. Bernstein went to the Coronet shortly after Bush left the building. Bernstein was advised that a studio apartment was presently vacant and that a one-bedroom would be available shortly.

(i) Wexford Hall
86-75 Midland Parkway
Queens, New York

On July 12, 1974, Ms. Bush went to Wexford Hall to inquire about renting a one-bedroom apartment that was advertised in the New York Times. Bush spoke with the superintendent who advised her that he had available for rent a 3-room apartment at \$250 per month and a 3 1/2-room apartment at \$270 per month. Both apartments were shown to Bush.

Ms. Bernstein went to Wexford Hall a short time after Bush left the building. The superintendent advised her that he had available for rent a 3-room apartment at \$250 per month and a 3 1/2 room apartment for \$270 per month. Bernstein was shown both apartments.

(j) Wilshire Hall
182-30 Wexford Terrace
Queens, New York

On July 12, 1974, after first dealing with a non-rental employee who indicated that discrimination against non-white applicants is or has been practiced at the Wilshire by the superintendent (who takes applications in the rental agent's absence) Ms. Bush spoke with Mr. Joseph Consalro, the rental agent, to discuss the possibility of renting a one-bedroom apartment at the Wilshire. Mr. Consalro advised Bush that he had a 1-bedroom apartment available for \$295.00. A New York Times advertisement indicated that the apartment rented at \$275 per month, but Consalro explained that the one-bedroom advertised in the newspaper was on the first floor and had already been rented.

Ms. Bernstein went to the Wilshire on July 12, 1974 and spoke with Mr. Consalro about renting a one-bedroom apartment. Consalro advised her that he had a one-bedroom apartment available for \$295 per month.

(k) The Essex
143-11 Barclay Avenue
Queens, New York

On July 24, 1974, Ms. Bush went to the Essex to inquire about a one-bedroom apartment that was advertised in the New York Times. Bush spoke with a non-rental employee who advised her that there were vacancies, but that the superintendent was not on the premises. Bush returned later that day and spoke to another non-rental employee who advised her that the superintendent was still out. This employee told her that discrimination is practiced at the Essex through misrepresentations to blacks that no apartments are available. Bush returned on August 2, 1974 at about 3:00 p.m. and spoke to a woman identified as Ann. The woman advised Bush that there was a vacancy, but that she would have to return on another day between the hours of 10:00 a.m. and 2:00 p.m. to speak with the renting agent, Mr. Graham.

On August 2, 1974, shortly after Ms. Bush departed from the Essex, Ms. Bernstein went to the Essex and spoke with a woman residing in the Moltzen apartment. The woman advised her that there was a vacant one-bedroom apartment, but that she would have to return on another day between the hours of 10:00 a.m. and 2:00 p.m. to speak with the renting agent, Mr. Graham.

3. Mr. Peter Connan, a former employee of defendants, was superintendent in late 1972 and early 1973 at the Westminster Apartments, then a virtually all-white building, after the death of his father, the previous superintendent. He advised that the Trump office staff, including Minerva Gilbert, wanted to know the race of the applicants whose applications were submitted to the central office, and that this information was provided. On one occasion he overheard Mrs. Gilbert tell the superintendent of another building, identity unknown, that he should have told a black applicant that there were no vacancies, instead of forwarding his application. Mr. Connan advised that his father, while superintendent, kept a sham lease and check to be shown to black applicants. One black was admitted to residency only after he had been falsely told that no apartment was available and shown the sham lease, and only after the actual existence of a vacancy was demonstrated by the offer of an apartment

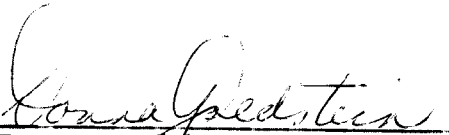
to the black applicant's white friend. Connan submitted at least three applications of blacks to the Trump office, but defendants did not rent to them.

4. The defendants have, throughout this proceeding, made false, misleading and reckless statements, including:

- (a) The affidavits filed in connection with their counterclaim; as outlined in plaintiff's memorandum response thereto;
- (b) The affidavits filed in connection with the spurious attack on the integrity of one of the counsel for plaintiff; and
- (c) Statements relating to the supposed nonexistence of records.
- (d) Disruptive tactics during discovery which have been previously outlined to the Court in plaintiff's report thereon.

Plaintiff proposes to adduce evidence of the foregoing to show consciousness of guilt and guilt on the part of defendant's.

5. On August 20, 1973, Mr. and Mrs. Kenneth Laitman, tenants at 3901 Nostrand Avenue who had recently vacated their apartment, wrote a letter to Mr. Trump at the offices of Trump Management Company charging that they had been denied the right to sublet their apartment because the prospective subleasee was black. A copy of this letter is appended hereto as Attachment A.


Donna Goldstein
Attorney
Department of Justice
Washington, D.C.

AFFIDAVIT

CITY OF WASHINGTON)
) ss
DISTRICT OF COLUMBIA)

I, Donna Goldstein, being duly sworn, depose and say:

1. I am an attorney in the Housing Section, Civil Rights Division, United States Department of Justice, and one of the counsel for plaintiff in United States v. Fred C. Trump, et al., Civil Action No. 73 C 1529.

2. I am informed of the facts of this case. The foregoing Plaintiff's Supplementary Answers to Defendants' Interrogatories are true and correct to the best of my information, knowledge and belief.

Donna Goldstein
DONNA GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Subscribed and sworn to before me
this 4 of September, 1974.

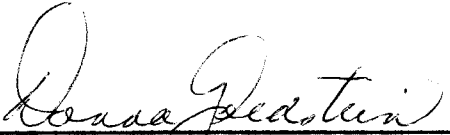
Valerie Prather
NOTARY PUBLIC

My Commission expires: *January 31, 1977*

CERTIFICATE OF SERVICE

I hereby certify that on September 5, 1974, copies of the foregoing Plaintiff's Supplementary Answers to Defendants' Interrogatories were placed in the United States mail, postage prepaid, addressed to counsel for the defendants:

Roy M. Cohn, Esquire
Saxe, Bacon, Bolan & Manley
39 E. 68th Street
New York, New York 10021



DONNA GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Trump Management Agency
 511 West 2 St.
 Brooklyn, N.Y. 11223
 Attn: Mr. Trump

re: Kenneth Laitman
 3901 Nostrand Ave. "A-3G"
 Brooklyn, N.Y. 11235
 August 20, 1973

- 212 -

Dear Mr. Trump:

We wish to appeal to you to correct the unconscionable actions of our representative Miss Marrayzo.

Miss Marrayzo had sent us a letter stating that we had to sign a new lease effective 6-1-73 for our apartment or else we would be evicted. We do not wish to do so but rather wanted to pay Trump Management the maximum legal rent each month we continued in the apartment. Miss Marrayzo insisted that we sign a new lease or else face eviction. We, therefore, under duress, signed a new lease.

Within a month after said lease signing we wished to vacate (3901 Nostrand Ave. apt. 3G) but were advised by Miss Marrayzo that we would have to pay \$500 + a month's rent to be released from the lease. We cannot afford to do this.

Not wishing Trump Management to suffer a loss by our vacating said apt. & thereby having a possible lawsuit for damages against us, we found a prospective tenant for the apartment willing to take over our lease or willing to sign a new lease at the maximum legal rent. We notified Miss Marrayzo and were told "you're the renting agent for the building, thank God, and if you want to be released from the lease then you pay \$500 + 1 month rent and we'll take care of renting the apartment."

Prospective tenant who is ready, willing and able to rent the apartment is: George Thomas of 26 Rochester Ave. apt. 16 Bklyn. Telephone 778-4678. He is employed and so is his wife.

A neighbor of ours, who saw Mr. Thomas (who is Negro) in our apartment, complained to Miss Marrayzo that if the apartment were rented to a Negro, she would break her lease and encourage others in the building to do likewise. Miss Marrayzo immediately telephoned us that if Mrs. Fremont (who is Jewish) of apt. 6P wished to take over our apartment then we would be released from the lease at no charge. Mrs. Fremont, however, decided not to take the apartment. I believe Miss Marrayzo refused to rent the apt. to Mr. Thomas because he is Negro. Racial prejudice should not be tolerated by your organization.

We believe that Miss Marrayzo is acting in an unconscionable, unlawful and prejudicial manner. We cannot afford to pay for an apartment that we are not going to use and feel it is not right that your organization would accept another tenant (which we found at our expense) and then demand \$500 + 1 mo. rent, when if the tenant were accepted then your organization would face no loss or have any claims for damages against us.

We have vacated the apartment and wish it to be known that it is available for rental. We appeal to you on the basis of the foregoing, to release us from the lease at no cost to us. Please reply as soon as possible.

Sincerely,

Kenneth + Ruth Laitman
 c/o Miriam Richman
 125 Ocean Parkway
 B'klyn, N.Y.

IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF

FILED

IN CLERK'S OFFICE

U. S. DISTRICT COURT E.D. N.Y.

NEW YORK

SEP 24 1974

TIME A.M. P.M.

CIVIL ACTION NO. 73 C 1529

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

FRED C. TRUMP, ET AL.,)

Defendants.)

APPLICATION OF THE UNITED STATES THAT DEFENDANTS' MOTION FOR SANCTIONS BE HEARD, DENIED WITH PREJUDICE AND STRICKEN AFTER HEARING

SIRS

PLEASE TAKE NOTICE that plaintiff, United States of America, will move this Court, before the Honorable Edward R. Neaher, District Judge at the United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York in Courtroom 9, on the 21st day of October, 1974 at 10:00 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard, for an Order denying with prejudice defendants' motion for sanctions, filed on July 26, 1974, on the grounds that the matters contained therein are unsupported by fact and are sham and false.

(51)

The grounds for this Application are set forth with particularity in plaintiff's supporting memorandum and in the attached affidavit of Frank E. Schwelb. Plaintiff further prays for such other further relief that this Court deems just and proper.

Respectfully submitted,

JAMES PORTER, Chief
HENRY A. BRACHTL, Attorney
United States Attorney's
Office for the Eastern
District
Civil Division

Frank E Schwelb
FRANK E. SCHWELB, Chief
NORMAN P. GOLDBERG, Attorney
Housing Section
Civil Rights Division
Department of Justice
Washington, D. C.

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF
NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,) CIVIL ACTION NO. 73 C 1529
)
 v.)
) AFFIDAVIT
 FRED C. TRUMP, ET AL.,)
)
 Defendants.)
 _____)

WASHINGTON)
) ss
 DISTRICT OF COLUMBIA)

FRANK E. SCHWELB, being duly sworn, deposes and says:

1. I am the Chief of the Housing Section of the Civil Rights Division, Department of Justice, and in supervisory charge of the above-styled litigation on behalf of the United States. I make this affidavit in support of our request that an early hearing be had on defendants' motion for sanctions against the United States and Ms. Donna Goldstein, that after a hearing an Order be entered denying said motion, that the motion and supporting affidavits be stricken, and that the Court impose such sanctions as may be appropriate for any abuse of its processes.

2. On or about July 26, 1974, defendants filed with this Court a Notice of Motion praying that Donna Goldstein, one of plaintiff's counsel in this action, be adjudged in

contempt of this Court for alleged coercion and threats against prospective witnesses, and that the United States be ordered to cease and desist from such alleged unlawful conduct. The Notice of Motion was purportedly supported by the affidavits of Carol R. Falcone and Thomas Miranda, former employees of defendants, and by the signed but unsworn statements of two former employees, Paul and Paula Ziselman. Also attached to the motion is an affidavit by defense counsel, in which he purports to describe a number of events at which, to the best of my knowledge, he was not present, and which did not occur in the manner described by him.

3. On or about August 5, 1974, plaintiff filed a response, together with affidavits, denying each and every allegation of misconduct and requesting expedited discovery and an early hearing on the motion.

4. On August 8, 1974, this Court directed that expedited discovery be conducted in preparation for a hearing to resolve defendants' charges. This Court also directed that Magistrate Catoggio supervise the taking of certain discovery depositions.

5. On August 8, 1974, in accordance with the Court's direction, counsel met informally with Magistrate Catoggio for the purpose of scheduling the taking of the proposed depositions. At that meeting, defense counsel withdrew his

request for a hearing on his motion but refused to withdraw the motion and the attached affidavits in which, among other things, Ms. Goldstein is accused of unprofessional conduct. As a result of this action, the charges against Ms. Goldstein remain on file, subject to being revived at any time at defense counsel's caprice.

6. Subsequently, plaintiff noticed the taking of depositions of Mr. Miranda and Ms. Falcone for August 28, 1974. In view of the serious nature of the charges against Ms. Goldstein, and my conviction that they are completely false, I had planned to take the depositions of her principal accusers personally. Without notice to plaintiff, defense counsel produced Mr. Miranda for deposition two days ahead of schedule. I was not in New York on August 26, since more routine depositions had been scheduled for that day and were scheduled to be taken by younger attorneys assigned to this case. As a result, the deposition of Mr. Miranda was taken outside my presence. I did take the deposition of Ms. Falcone on August 28, 1974.

7. For reasons set forth in our attached memorandum, I am satisfied that the allegations against Ms. Goldstein are false, and that they were filed, at least, with reckless disregard of the facts, which facts were readily available to defense counsel. I have full confidence in the integrity and professionalism of Ms. Goldstein and of the propriety of her conduct in this case.

8. I believe that defense counsel's action in declining to withdraw these charges leaves them unfairly hanging over Ms. Goldstein's head, as a possible permanent cloud on her professional reputation. In addition, I believe that the continued pendency of such charges can only have the effect of making it more difficult for Ms. Goldstein to carry out her professional responsibilities in connection with this case. Accordingly, the charges should either be withdrawn, with prejudice, or evaluated by this Court based on the evidence. Even though a hearing on this matter would necessarily be unpleasant for Ms. Goldstein, since she has in my view done nothing to warrant any challenge to her integrity, it is preferable to the prospect of allowing charges I believe to be false and scurrilous to hang over her professional career indefinitely.

9. For reasons set forth in our memorandum I believe that defendants have used disingenuous tactics in this case to a degree which warrants a strong adverse inference against them on the merits of the case. Accordingly, and in order to facilitate Ms. Goldstein's participation in the trial, we request that this matter be scheduled for hearing in advance of the trial of the main case.

10. No previous application has been made for the relief here requested.

Frank E. Schwelb

FRANK E. SCHWELB

Donald W. Hadden

Sworn to before me this 20th
day of September, 1974.

My Commission Expires August 14, 1977

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y

★
SEP 24 1974

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
-----X

UNITED STATES OF AMERICA, :

Plaintiff, :

-against- :

FRED C. TRUMP, et al., :

Defendants. :
-----X

TIME 11
P.M.

Civil Action
No. 73 C 1529

MEMORANDUM OF LAW

DAVID G. TRAGER
United States Attorney
Eastern District of New York
Attorney for Plaintiff
225 Cadman Plaza East
Brooklyn, New York 11201

FRANK E. SCHWELB, Chief
NORMAN P. GOLDBERG, Attorney
Housing Section
Civil Rights Division
Department of Justice
Washington, D. C.
(Of Counsel)

52

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
)	
Plaintiff,	)	CIVIL ACTION NO. 73 C 1529
)	
v.)	
)	
FRED C. TRUMP, et al.,	)	<u>MEMORANDUM OF UNITED STATES IN</u>
	)	<u>SUPPORT OF ITS APPLICATION TO</u>
Defendants.	)	<u>DENY DEFENDANTS' MOTION FOR</u>
	)	<u>CONTEMPT WITH PREJUDICE, FOR AN</u>
	)	<u>EARLY HEARING, AND TO STRIKE</u>

On July 26, 1974, defendants filed with this Court a "Notice of Motion" seeking an adjudication of contempt against Donna F. Goldstein, a Department of Justice attorney assigned to this litigation, and a "cease and desist" order against the United States. In affidavits filed with Defendant's Notice of Motion, including that of defense counsel Roy M. Cohn, Ms. Goldstein was alleged to have threatened prospective witnesses and to have attempted by other improper means to influence their testimony in the forthcoming trial of this case. Ms. Goldstein and other representatives of the United States were also accused of conducting themselves in an unprofessional manner while in the process of attempting to conduct a records inspection at the offices of the defendants. The United States filed a response, together with affidavits by three of plaintiff's counsel, denying each and every allegation of improper conduct as false and

scurrilous and requested expedited discovery and an early hearing on the issue. On August 8, 1974, this Court granted plaintiff's request for expedited discovery in connection with this issue and directed that Magistrate Catoggio supervise the taking of the scheduled depositions.

Subsequent to the hearing on August 8, 1974, Magistrate Catoggio met with attorneys for both parties for the purpose of scheduling the proposed discovery. At that meeting, defendants withdrew their request for a hearing on the contempt charges, but refused to withdraw the underlying pleadings, which contain the allegations of misconduct by Ms. Goldstein.

Even though defendants' pleadings lie dormant in the file, plaintiff believes that the charges contained therein continue to hang over Ms. Goldstein. They can be resurrected at any time at defense counsel's caprice, and leave a shadow over her reputation which will remain there until removed by adjudication or withdrawal with prejudice. The accusations also interfere, practically as well as psychologically, with plaintiff's preparation of the case and impose unwarranted burdens on Ms. Goldstein's ability to participate fully and effectively at the forthcoming trial. Plaintiff has accordingly taken discovery depositions of Ms. Goldstein's principal accusers and now requests that this Court schedule a hearing on the

merits of defendants' motion and at the conclusion of that hearing deny defendants' motions as sham and false. Plaintiff asks that this matter be resolved promptly, and in advance of trial. If it is established, as we believe it will be, that the allegations of misconduct are false and were filed with reckless and malicious disregard of the truth, then that fact is admissible against defendants on the merits as an indication of defendants' consciousness that their case, if truthfully presented, is weak. See pp. 17-18, infra.

DISCUSSION

I. THE FACTS

A. Counsel for Plaintiff Did Not Threaten or Harass Prospective Witnesses

The two persons who have made serious allegations of unprofessional conduct against Ms. Goldstein are Mr. Thomas Miranda and Ms. Carol Falcone,^{*/} both former employees of defendants.

^{*/} Two other persons, Mr. & Mrs. Paul Ziselman, submitted affidavits, but neither of the affidavits in our opinion contained allegations of unprofessional misconduct against Ms. Goldstein. We do wish, however, to preserve our right to call them to testify at any hearing on this matter if we believe that such action is necessary to resolve this controversy.

They allege in separate affidavits that Ms. Goldstein threatened and harassed them in an effort to induce them to testify against their former employer, Trump Management Co. While neither has yet been subjected to cross-examination by plaintiff, the testimony that they have given on deposition, combined with other evidence already in the record, seriously discredits their allegations.

Nor are the witnesses the only persons at fault. While defense counsel saw fit to file his own affidavit attesting to the truth of the allegations made against Ms. Goldstein by Mr. Miranda and Ms. Falcone, each of these witnesses testified on depositions that counsel never met, spoke, or otherwise communicated with him or her until the day of their depositions. The filing of such inflammatory charges by counsel against another attorney without any inquiry into their truth or falsity is, at least, unusual.

(1) Ms. Carol Falcone

In her affidavit of July 19, 1974,^{*/} Ms. Falcone charged that Ms. Goldstein had engaged in unprofessional conduct in a number of

^{*/} Although the affidavit bears a date of July 19, 1974, Ms. Falcone swore that she, in fact, wrote it several days later. She also swore that every word in it was her own, and that it was written without assistance in spite of some striking similarities in language to earlier submissions on behalf of defendants.

significant ways. In the deposition that followed, however, Ms. Falcone withdrew or substantially modified many of the allegations that she had previously leveled at Ms. Goldstein. While even the "softened" accusations will be shown to be false, and while a full airing of Ms. Falcone's charges must await the hearing and adversary cross-examination (which we carefully avoided on deposition), a comparison of her affidavit and deposition^{*/} is instructive at this juncture to enable the Court to make a preliminary appraisal of Ms. Falcone's testimony.

1. Affidavit - "Ms. Goldstein harassed and accused me of lying and withholding information and then threatened that I would be held for perjury and thrown into jail."

Deposition - Ms. Falcone testified that Ms. Goldstein never directly accused her of lying nor did she, in fact, threaten to have her thrown into jail. Ms. Falcone did testify that Ms. Goldstein asked her whether she knew what the penalty for perjury was, and that Ms. Falcone construed this question, in the

^{*/} Counsel have not yet been furnished with copies of the depositions, but we believe that the transcripts thereof will fully support our references here.

context in which it was asked, as an accusation of perjury and a threat to be sent to jail.

Ms. Goldstein will testify that the subject of perjury was never mentioned.

Ms. Falcone also testified that the interview ended amicably. Even if Ms. Goldstein had mentioned the penalties for perjury - and she did not - the filing of an affidavit that Ms. Goldstein threatened Ms. Falcone with imprisonment, when the affiant will testify to no more than she did, is at least reckless disregard of the truth.

2. Affidavit - "[Ms. Goldstein] accused me of not legitimately owning my own business and stated that the money I used for its purchase was illegally obtained, which it was not. "

Deposition - Ms. Falcone acknowledged that Ms. Goldstein never accused her of obtaining funds for her business in an illegal manner. She stated that Ms. Goldstein remarked during the interview about the fact that Ms. Falcone owned her own establishment even though she was young and had apparently earned low wages from Trump. Ms. Falcone inferred from this, and from nothing else, that she was being charged with having illegally obtained money to finance her business.

3. Affidavit - "I was interviewed by a Ms. Donna Goldstein, attorney for the Civil Rights Division of the Justice Department and by another attorney on the morning of July 19, 1974, at my place of business in connection with the Civil Rights suit against my former employer, Trump Management." She also referred later in the affidavit to her interrogators in the plural.

Deposition - Ms. Falcone testified that only Ms. Goldstein interviewed her about the suit and that no other attorney was present. Ms. Falcone did say that another attorney had called her several days beforehand for the purpose of arranging an interview.

The foregoing description of some of the discrepancies in Ms. Falcone's testimony, given under oath*/ on two separate occasions, is not intended to be exhaustive or necessarily dispositive of the matter. We believe, however, that this discussion does shed light on the insubstantial basis for the serious charges made against Ms. Goldstein. At the hearing on our motion, we expect to establish that none of the accusations directed at Ms. Goldstein are true and that the entire affidavit should be stricken as sham

*/ On deposition, Ms. Falcone was unwilling to answer, clearly and unambiguously, whether or not she knew she was under oath when she signed the affidavit.

and false. We will also ask that the appropriate inferences be drawn against defendants for the use of such tactics.

(2) Mr. Thomas Miranda

The principal accusation of misconduct made by Mr. Miranda against Ms. Goldstein is contained in his affidavit in which he states the following:

"[Goldstein] stated that if I did not cooperate with her and in effect 'lie' in order to help her in her ambitions and winning her case, 'I will be thrown into jail.'"

On deposition, Mr. Miranda reaffirmed this allegation. He acknowledged that his dealings with Ms. Goldstein were friendly, but he described her as "tough" on the job.

In this litigation, both parties have at different times sought to rely on Miranda's ability to tell the truth and it is necessary to explain Miranda's role in this litigation in order to assess the validity of his recent charges against Ms. Goldstein.

About one year ago, attorney Elyse Goldweber, who was then employed by the Department of Justice and assigned to this case, interviewed Mr. Miranda as part of plaintiff's preparation of this litigation. The nature and substance of that interview are described in an affidavit submitted by Ms. Goldweber in connection with these

proceedings. According to Ms. Goldweber, Mr. Miranda provided information to the effect that defendants engaged in racially discriminatory practices. He also indicated that he was deeply concerned that he might be physically harmed by the defendants if they became aware that he had furnished damaging information to the Department of Justice. Subsequent to that interview, plaintiff, as part of its obligations under the rules of discovery, furnished defendants, in response to their interrogatories, with the information provided by Mr. Miranda including his identity. Mr. Miranda was notified by letter that this had been done. A copy of that letter is attached to Ms. Goldweber's affidavit.

During July of this year, Ms. Goldstein reinterviewed Mr. Miranda, since he was considered to be an important witness in this litigation and had not been contacted in several months. During that interview, Mr. Miranda, while expressing apprehension about becoming a witness in this action, provided additional information about defendants' discriminatory practices. A few days later, however, Mr. Miranda reversed direction and executed an affidavit effectively retracting the statements he had previously furnished to the two government attorneys, and accusing Ms. Goldstein of improper conduct.

In his recent deposition, Mr. Miranda flatly denied that he had furnished to plaintiff any information unfavorable to defendants'

position in this litigation despite affidavits to the contrary by Ms. Goldweber and Ms. Goldstein. In this connection it is noteworthy that defense counsel does not challenge Ms. Goldweber's veracity. Mr. Cohn's affidavit states that "At all times that she was in charge of the said investigation, Miss Goldweber pursued her duties with diligence, but observed legal and ethical strictures."

The positions taken by Mr. Miranda and the two government counsel are, of course, irreconcilable. Obviously, if Mr. Miranda initially told Ms. Goldweber about racially discriminatory practices engaged in by the defendants, then the statements in his affidavit and deposition are false, and Ms. Goldstein did not make alleged threats designed to induce false testimony. The determination of whether Mr. Miranda made these statements turns largely on an assessment of the credibility of the witnesses.

In view of the requirements of Rule 11 of the Federal Rules of Civil Procedures, relating to the signing of pleadings, one would ordinarily assume that defense counsel had reason to believe that Mr. Miranda was telling the truth and that counsel for the United States were lying. As previously stated, however, defense counsel never interviewed Mr. Miranda, and had never met him until August 26, 1974, more than a month after the affidavit was filed.

The only information which defense counsel had as to Mr. Miranda's veracity was the following excerpt from the deposition of defendant Fred Trump, at which counsel was present:

Q. Do you have any knowledge of instructions that were given to any of your managers to attach a piece of paper in order to flag the main office that the prospective tenant was a black person?

A. That is such a lie, and by our friend, Mr. Miranda, who has been lying to us since we hired him, has taken home money, but hasn't produced . . . (Fred Trump Dep. p. 37)

B. Counsel for Plaintiff did not Engage
In Unprofessional Conduct During a
Records Inspection

In his affidavit of July 29, 1974, defense counsel asserts that

On or about June 12, 1974, Miss Goldstein by-passing counsel, literally descended upon the defendants with representatives of the Civil Rights Division and Student Interns demanding entry into the offices of Mr. Donald Trump, officer of the defendants' corporation, and production of defendants' records. (emphasis added) */

His affidavit further asserts that Ms. Goldstein and her colleagues ignored requests to contact the offices of defense counsel and that defendants were unsuccessful in getting plaintiff's representatives to leave their offices until defendants contacted the United States Attorney for the Eastern District.

*/ The affidavit also refers to a letter addressed to ~~Assistant~~ United States Attorney Henry Bracht1 from Mr. Scott Manley, co-counsel for defendants, which accuses plaintiff's representatives of "descending upon the Trump offices with five storm troopersbanging on the doors and demanding to be allowed to swarm haphazardly through all the Trump files and to totally disrupt their daily business routine."

These allegations against Ms. Goldstein, as well as against other representatives of plaintiff, in fact, bear virtually no resemblance to what actually took place on the morning of June 12th or the events leading up to that morning. The fact that neither counsel for defendants was present at the offices of defendants or accessible by telephone at the time when plaintiff's counsel arrived to inspect records may, in large part, explain the inaccuracies of the charges, but it does not excuse them.

Even though plaintiff has previously described in its report of the United States to the Court on the Status of Discovery its position on these allegations, we take the opportunity again to set forth briefly, together with supporting documentary proof, the actual sequence of the events involving the proposed records inspection of June 12th.

On May 6, 1974, plaintiff served and filed a Rule 34 Request for Production of Documents on defense counsel Roy Cohn. (See letter of May 6, 1974, addressed to defense counsel and signed by Ms. Goldweber, attached as Appendix A). Another copy of the request was mailed to defense counsel Scott Manley by Ms. Goldweber pursuant to his telephone request on May 15, 1974. A third copy of the request was sent to Mr. Manley on May 28, 1974, following a telephone conversation between him and Ms. Goldstein

in which Mr. Manley stated that he knew nothing about the proposed inspection. (See letter of May 28, 1974, addressed to Mr. Manley and signed by Ms. Goldstein, attached as Appendix B.) Ms. Goldstein, in the course of two additional telephone conversations between May 28 and June 3, reminded Mr. Manley that plaintiff was planning to inspect records on June 12 at defendants' offices. At no time during these conversations did Mr. Manley express any objection to the inspection or indicate that the records would not be made available at the designated time and place. Moreover, defendants filed no objection to the records inspection, and did not suggest any alternative site or date, or any limitation on what plaintiff would be permitted to inspect.

Plaintiff's representatives arrived at the offices of defendants on June 12th at the designated hour for inspection and were met by a group of Trump employees who expressed surprise at plaintiff's visit. Initially, Mr. Stuart Hyman, controller of Trump Management, met solely with Mr. Henry Brachtl, Assistant United States Attorney. Ten to fifteen minutes later, Mr. Hyman met with the other representatives of plaintiff, including attorneys Norman P. Goldberg and Ms. Goldstein, and informed them that he was unaware of the scheduled records inspection and that no records could be produced until he contacted defense counsel.

Ms. Goldstein attempted, without success, to reach Mr. Manley by telephone and left a message for him to contact her at the United States Attorney's office. Plaintiff's representatives then left the Trump offices and returned to the United States Attorney's office.

About one hour later, Mr. Manley telephoned Ms. Goldstein at the office of the United States Attorney to inform her for the first time that he had objection to the inspection. Mr. Manley stated that these objections had previously been made to plaintiff whereupon Ms. Goldstein responded that no such objection had been transmitted and that, if defendants would not permit the inspection to proceed, plaintiff would file an appropriate motion. After some negotiations, defendants agreed to allow the inspection to begin on June 14, 1974, at the offices of defense counsel.

It is apparent even from this brief discussion, and the attached documentation, that plaintiff did not bypass defense counsel in its efforts to inspect defendants' records pursuant to a properly noticed request. Moreover, contrary to the affidavit and letter of defense counsel, there was no banging on doors, overreaching or other improper conduct by any of plaintiff's representatives. No calls were made to the United States Attorney's office by defendants or their counsel complaining about the conduct of representatives of the plaintiff.

We are prepared to call at the hearing on this matter each of the representatives of plaintiff who has some knowledge of these events in order to refute defendants' charges.

II. THE LAW

While defendants' motion may simply be denied on the grounds that there are insubstantial facts to support it, there is additional authority under Rule 11 of the Federal Rules of Civil Procedure for the striking of pleadings which are found to be sham and false. Rule 11 states:

The signature of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a pleading is not signed or it is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the action may proceed as though the pleading had not been served. For a willful violation of this rule an attorney may be subjected to appropriate disciplinary action. Similar action may be taken if scandalous or indecent matter is inserted.

That Rule is to be construed as imposing an affirmative obligation on the attorney filing the documents that he has in good faith made the determination that there is good ground to support the facts contained in the pleadings. Freeman v. Kirby, 27 F.R.D. 395, 397 (S.D.N.Y. 1961). The evidence suggests that this obligation was not fulfilled. Counsel who disregard this Rule

are to be held "strictly accountable." United States for the Benefit of Foster Wheeler Corp. v. American Surety, 25 F. Supp. 225 (E.D.N.Y. 1938). The sanctions provided in the Rule provide not only for the striking of a pleading found to be sham and false but also for such disciplinary or other action as may be appropriate.

* * * *

If the Court finds, after hearing, that defendants' allegations of unprofessional conduct against plaintiff's counsel are sham and false, plaintiff will ask not only that this Court strike those pleadings containing such allegations but that it draw appropriate unfavorable inferences against defendants at the time of the presentation of their cases on the merits. To quote Professor Wigmore

[A] party's falsehood or other fraud in the preparation and presentation of his cause, his fabrication or suppression of evidence by bribery or spoliation, and all similar conduct, is receivable against him as an indication of his consciousness that his case is a weak or unfounded one; and from that consciousness may be inferred the fact itself of the cause's lack of truth or merit. The

inference thus does not apply itself necessarily to any specific fact in the cause, but operates, indefinitely though strongly, against the whole mass of alleged facts constituting his cause. Wigmore on Evidence, §278 (3rd Ed. 1940) */

That principle set forth, in Wilson v. United States, 162 U.S. 613, 620 (1886), has been consistently followed by federal courts. See e.g. Holt v. United States 272 F.2d (9th Cir. 1959) Andrews v. United States, 57 F.2d 723 (5th Cir. 1946). Accordingly, if the Court concludes that defendants made spurious claims against plaintiff's counsel which disrupted plaintiff's preparation of its case and misled the Court, as well, we submit that the propriety of drawing an inference as to the weakness of the defendants' case would be particularly appropriate.

CONCLUSION

Fore the foregoing reasons, we respectfully request that this matter be set down for hearing in advance of the trial,

*/ This episode is merely the most striking example of conduct by the defense of the kind condemned by Wigmore, and not the first. In that connection, plaintiff invites the Court's attention to our Memorandum of the United States in Response to the Affidavits of Donald Trump and Roy Cohn, filed on January 7, 1974, and to the Report of the United States to the Court on the Status of Discovery, filed on August 25, 1974.

that the defendants' motion be dismissed with prejudice as sham and false, and that appropriate sanctions be ordered as the Court deems just and proper.

Respectfully submitted,

Frank E. Schwelb

JAMES PORTER, Chief
HENRY A. BRACHTL, Attorney
United States Attorney's
Office for the Eastern
District
Civil Division

FRANK E. SCHWELB, Chief
NORMAN P. GOLDBERG, Attorney
Housing Section
Civil Rights Division
Department of Justice
Washington, D. C.

APPENDIX A

T. 5-6-74

MAY 6 1974

JSP:FES:MSG:cmk
DJ 179-52-28

Roy M. Cohn, Esq.
Saxe, Bacon, Bolan and Manley
39 East 63th Street
New York, New York 10021

Re: United States v. Fred C. Trump, et al.,
Civil Action No. 73 C 1529

Dear Roy:

Please find enclosed two copies of Plaintiff's
Request for Production of Documents.

Sincerely,

J. STANLEY FOTTINGER
Assistant Attorney General
Civil Rights Division

cc: Records
Chrono
Goldweber
Trial File
Hold

By:
ELYSE S. GOLDWEBER
Attorney
Housing Section

APPENDIX B

T. 5/28/74
JSP:EG:mlp
DJ.175-52-28

MAY 28 1974

Scott Manley, Esq.
Saxe, Bacon, Dolan & Manley
39 East 68th Street
New York, New York 10021

Re: United States v. Fred C. Trump, et.al.
Civil Action No. 73 C 1529

Dear Mr. Manley:

In response to our telephone conversation of May 28, 1974, please find enclosed a copy of Plaintiff's Request for Production of Documents, scheduled to commence on June 12, 1974. Also, please note the attached proposed schedule for continuing depositions of the agents and employees of Trump Management, Inc. Formal notice will be forthcoming. These depositions had been previously scheduled for April 18 - April 22, 1974.

Thank you for your cooperation in this matter. I look forward to hearing from you soon to confirm the attached discovery schedule.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By:

cc: Records
Chrono
Ms. Goldstein
Trial File
Henry Brachtl

DONNA GOLDSTEIN
Attorney
Housing Section

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK IN CLERK'S OFFICE
J. S. DISTRICT COURT E.D. N.Y.

★ NOV 6, 1974 ★

UNITED STATES OF AMERICA,)
)
Plaintiff,) CIVIL ACTION NO. 73 CIV 1529
)
)
v.) SUPPLEMENTAL ANSWERS TO
) DEFENDANTS' INTERROGATORIES
FRED C. TRUMP, et al.,)
)
Defendants.)

The United States of America, plaintiff herein, by its undersigned attorney hereby supplements its Answers to Defendants' First Interrogatories.

Supplemental Answers to
Interrogatories 1 and 2

1. The following information constitutes evidence that defendants through their agents or employees have made apartments unavailable on account of race in the following ways:

a. Mr. Carlos Zeller, 512 Harbor Drive, Andalusia, Pa., a former employee of defendants, was superintendent at the Highlander in 1973. Mr. Zeller stated that he attached a coded piece of paper to those applications submitted by blacks in order to inform the central office that the applicant was black. Mr. Zeller also advised that various superintendents in Queens used a "phony lease" as a device to enable them to refuse renting apartments. In addition, Mr. Zeller stated that

generally he did not count a wife's income in judging whether a couple was financially qualified to rent an apartment.

b. Mrs. Ruth Sarver, 164-20 Highland Ave., Queens, was hired by Mr. Fred Trump to assist Mr. Carlos Zeller, the former superintendent, in the renting of apartments at Highlander Hall and did so for approximately three months in 1973. Sarver stated that on one occasion she was informed by Zeller that Trump Management tries not to rent to black persons, and that the reason two single black males, whose application she submitted, were rejected for tenancy was on account of their race. Mrs. Sarver also advised that a racial code was used in the application process to inform the central office which applications were submitted by black persons.

c. Mr. Jack Fogler, 2850 Ocean Parkway, Brooklyn, New York, a former employee of defendants, was a doorman at Ocean Terrace Apts. in 1970 and 1971. Mr. Fogler advised that Superintendent Guido Lara had instructed him that whenever Lara was away from the building at the time that a black inquired about renting an apartment, Fogler was to advise the black inquirer that the rental rate was substantially more than the amount ordinarily charged so as to discourage the

black inquirer. White inquirers who inquired at a time when Lara was absent were told to return at a time when Lara would be present.

d. Mr. Ronald Funn, a black tenant residing at 41-10 Bowne St., Flushing, stated that Mr. Thomas Miranda, a former superintendent, related to him the following information during his employment by Trump Management:

(1) On one occasion, Miranda forwarded an application and check submitted by a black prospective tenant to the central office of the defendants. An agent of the defendants indicated that the application had been rejected and directed Miranda to return the check. Miranda initially refused to follow that order. Ultimately the black applicant was denied an apartment and according to Miranda the reason for the rejection was the race of the applicant.

(2) Miranda related to Mr. Funn that agents of the central office did not want him to rent to an Indian who had submitted an application, but eventually decided

against refusing to rent the apartment. The decision to accept the applicant, according to Miranda, rested on the fact that the Indian applicant had United Nations connections and the Management Company believed that the rejection might cause an unnecessary confrontation.

(3) Miranda indicated that a black who had been accepted for tenancy in the Kendall Hall Apartments had been accepted because the Trump agents believed that the applicant was associated with a local fair housing organization.

(4) Miranda also related that he was reluctant to disclose to the Trump Management that he was Puerto Rican. Miranda indicated that he preferred to state that he was South American since he believed that the defendants did not want Puerto Ricans living or working in the building.

e. Robert Heusel, 1300 Richmond Ave., Staten Island, was formerly employed by defendants in 1973 as a superintendent at Lawrence Towers. Heusel advised that Sophie Fredwald instructed him to send black applicants directly to the central office to apply.

With respect to white applicants, Heusel was authorized to accept applications and deliver them to the central office for processing . Heusel also stated that when he delivered applications to the central office he was asked the race of the applicant. In addition, Heusel advised that a rental agent assigned to rent apartments at Lawrence Towers applied more stringent standards in determining the eligibility of black applicants than white applicants.

According to Heusel, a wife's income was not counted in evaluating whether or not a couple's income was sufficient to meet the financial standards for renting an apartment.

f. Donald Herman, Oriental Boulevard, Brooklyn, was a former rental agent employed by defendants in 1973. Herman indicated that at the beginning of his employment he asked M. Marazzo whether or not Trump Management rented to blacks. According to Mr. Herman, Ms. Marrazzo responded that some blacks do live in Trump buildings but that Trump Management believes that Jewish tenants are the best tenants. Herman also stated that the superintendent of the building in which he worked, Frank Finnegan, gave him the impression, through

words and statements, that he should not rent to blacks. Herman also has some recollection that a code was used as a means to identify those applications which had been submitted by black persons.

g. Allan A. Gross, 18 Seaside Ave., Staten Island, was formerly employed as a rental agent and maintenance manager by the defendants in 1973 at Tysens Park Apartments. Gross related that on at least two occasions he heard Irving Eskenazi, a high-level manager of the defendants, instruct rental agents at the Tysens buildings to discourage black applicants from renting apartments. Gross also stated that a code was used within the office to designate which applicants were black or otherwise "undesirable."

h. Mr. James Gordon White, 46 West 45th Street, New York, New York, a former employee of defendants, was a rental agent at Tysens Park Apartments in 1973. According to Mr. White, Mr. Fred Trump instructed him not to rent to black persons. Additionally, Mr. Trump told him that he wished to decrease the number of black tenants already residing at Tysens Park by encouraging current black tenants to locate housing elsewhere. White states that a code was placed on rental applications.

White also recalls that during his employment he accepted an application for tenancy from a black couple which he gave to another rental clerk, Frances (last name not recalled), for forwarding to the main office. White states that Frances expressed concern about submitting the application because the applicants were black, and believes that Frances used a code to indicate the race of the applicant.

i. Aldopho Gomez, 377 South 4th St., Brooklyn, was formerly employed by the defendants as a doorman and porter at the Briarwyck and Highlander. Gomez stated that as a doorman he was instructed by former superintendent Carlos Zeller to inform blacks who inquired about rentals that there were no vacant apartments even though there were such vacancies available for rent. Gomez also stated that while he was employed at the Briarwyck there were at least two occasions when he informed black prospects that apartments were available. According to Gomez, these applicants proceeded to an office to speak to a rental agent identified as Harry (last name unknown.) Gomez stated that a few minutes later these applicants left the rental office and indicated that they had been told that there were no vacant apartments.

j. Eduardo Galdames, 445 W. 49 St., New York, New York, formerly employed by defendants as a doorman at the Briarwyck Apartments. Mr. Galdames states that he was told by Mrs. Theresa Schefflin, a former rental agent, that an apartment at Briarwyck had been rented to black women at a substantially higher rent than is required of whites, and that Trump Management did not wish to rent to black persons.

k. Mr. and Mrs. Ricky Helms, 1403 New York Avenue, Brooklyn, New York.

On or about September 26, 1974, Mr. Helms, telephoned the rental office of Beachhaven Apartments, 2611 West 2nd St., Brooklyn, New York, to inquire about renting a two-bedroom apartment. He was told by an unidentified female that a two-bedroom apartment was available, and that the rental rate for 2 bedrooms was \$295 and up. Mr. and Mrs. Helms arrived at the rental office on West 2nd Street approximately forty-five minutes later and spoke to a rental agent who identified himself as Irving Lichowitz. Mr. Lichowitz told them that there were no available two-bedroom apartments, and that the last one had been rented about one hour earlier. When the Helms asked about the rental price, Mr. Lichowitz responded that two bedrooms rent for approximately \$295 and up.

On or about October 3, 1974 at approximately 11:30 a.m. a tester for the Open Housing Center of the New York Urban League, Mr. Michael Scott, went to the Beachhaven Apartments and was shown two available two-bedroom apartments by Mr. Liebowitz, renting for \$255 and \$260. At approximately 12:00 p.m., of the same day, Mrs. Helms telephoned Mr. Liebowitz, identified herself, and inquired about available two-bedroom apartments. Mr. Liebowitz responded that there were still none available.

1. Ms. Maxine Brown, 182-30 Waxford Terrace, Jamaica, New York.

On or about December 1963, after noticing a rental sign for the still unfinished Wilshire Apartments, Ms. Brown spoke to the rental agent and filled out an application for a one-bedroom apartment. The agent told her that she would be contacted. Approximately one month later, after having heard nothing, she called the Wilshire rental office and was told that one-bedroom apartments were available. When she arrived shortly later, she was told that nothing was available. Ms. Brown then filed a complaint with the New York City Human Rights Commission. Shortly thereafter Ms. Brown received a letter from Trump Management offering her an apartment at the

Wilshire. When she contacted the defendants she was told that the apartment was not yet ready. After approximately one week, a white tester from the New York Urban League was told that apartments were available for immediate occupancy. A black tester was subsequently told that apartments were not yet available for occupancy. Ms. Brown's complaint proceeded to a hearing before the New York Commission and Ms. Brown secured her present apartment at the Wilshire in June 1964.

2. Pursuant to the agreement made by counsel of the United States in open court on October 24, 1974, we submit the following list of names which represents those persons who were contacted in connection with the investigation and preparation of this action:

Miriam Abrams
Casper Aloï
Cosmo Aloï
Shirley Ames
Corinthia Anderson
Lola Anderson
Carmen Baceret
Jose R. Barros
Peter Baybak
Victor Baybak
Susan Bernstein
Beverly Best
Vikentije Besu
Luiz Betencourt
Kalman Biczó
Theodore Bogart
Harriette Bolling
Carl Bonekoskey
Rene Bouchard
Gerard Breitner
Donald Brofman
Mae F. Brown
Maxine Brown
William V. Buffa
Mr. & Mrs. Ronald Bunn
Stephanie Bush

Joseph Calcaterra
Doreen Cameron
Alfred Cardilli
Regis Cardillo
Martin Celnick
Lawrence Ceraula
Michael Cheng
Andrew Cirelli
Ruth Clarke
William Clay
William Cloonan
Nafi Coker
Peter Connan
Ismail Dahbali
Henrietta Davis
Marie Davis
Glen G. Day
Oscar G. Deagustini
John DeMark
Edward Dier
Charles Duryea
John Egeland
Rufus Ensley
Selma Epstein
Janice Evans
Carol Falcone
Diane Falcone
Victor Falcone
Theresa Farina
Skender Fici

Elizabeth DiFiore
Max Fischer
Richard Foard
Jack Fogler
Marva Forde
Linda K. Friedman
Anita Furman
Edwardo Galdames
Mary Gallagher
Annette Gandy
Edgar Gelar
Rhoda Glasser
L. Goldberg
Monique Golden
Dina Goldfarb
Morris Goldfarb
Adolfo Gomez
Benny Gonzales
James Gordon
Patrick Dennis Green
Max Greenbaum
Hyla Greenberg
Frank W. Greene
Allan Gross
Mabel Gruber
Josephine Gugliotta
Ernestine Guzman

Virginia Hallem
Lucy Hanna
Herbert Heller
Mr. & Mrs. Ricky Helms
Donald Herman
Robert Heusel
Sara Heyman
Mr. & Mrs. Alfred Hoyt
Ann Hurley
Stuart Hyman
Clara Jacobs
Gustav Jaeckh
Carolina Kanguat Jivi
George Sim Johnston
Charles Jonap
Ellis W. Jones
Margaret Jones
Rose M. Jones
Nettie Kerstein
Harry Kreitzer
Mr. and Mrs. Kenneth Laitman
Guido Lara
Henry Lawson
Adelfa Leal
Joan Legeno
Anthony F. Licari
Ray LiMani
Nicholas Luttendodt

Dora Mabunda
John Mare
Charles W. Martin
Mary Massa
Gary M. McCaskill
Peter Menza
Youn Minn
Thomas Miranda
Charles Mitchell
Geraldine Mitchell
Esther Monasch
Lillian Morales
Robert Morrison
John Mosby
Sheila Moskowitz
Alan Newman
Gertrude Olin
Wilma Parker
Robert L. Patterson
Yolanda Perez
Julius Reinheimer
Thomas Randazzo
Joseph Reed
Frank Regina
Julius Reinheimer
Gertrude Robinson
Walter Rohr
Chauncey Roles
Abraham Rosenberg

Robert Rosenblum
Emma Rossinsky
Albert Rossland
Andrew Rossner
Muriel Salzman
Louis Sarnell
Ruth Sarver
Dominic Scaglione
Mr. and Mrs. Harry Schefflin
Helen Schnitman
Marcia Schwartz
Charles Sedita
Louis Sforza
Martin Shaechter
Sarah Shah
Pearl Shaw
Muriel Silberberg
Otis Simpson
Gloria V. Sloley
Herb Smith
Phyllis Spiro
Frank Stern
Jeanette Strauss
Simone Taha
Meilech Teitelbaum
Matthew Tosti
Anthony Tringo

L. Warkol
Olga Wusits
J. Hugh Watkins
Edward Watson
Arlene Weiler
James Gordon White
Robert H. White
Bill Wiedmann
Pauline M. Williams
Helen Wrenne
Abraham Wybinow
Stephen Zaffarano
Mr. and Mrs. Paula Ziselman

Respectfully submitted,



Frank E. Schwelb
Norman P. Goldberg
Donna F. Goldstein
Attorneys,
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530

AFFIDAVIT

CITY OF WASHINGTON)
) ss
DISTRICT OF COLUMBIA)

I, Donna Goldstein, being duly sworn, depose and say:

1. I am an attorney in the Housing Section, Civil Rights Division, United States Department of Justice, and one of the counsel for plaintiff in United States v. Fred C. Trump, et al., Civil Action No. 73 C 1529.

2. I am informed of the facts of this case. The foregoing Plaintiff's Supplementary Answers to Defendants' Interrogatories are true and correct to the best of my information, knowledge and belief.

Donna Goldstein
DONNA GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Subscribed and sworn to before me
this 10th of November 1974.

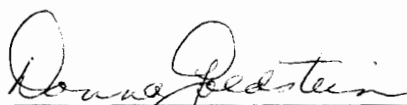
John L. Schindler
NOTARY PUBLIC

My Commission expires: Feb. 14, 1977.

CERTIFICATE OF SERVICE

I hereby certify that on November 4th, 1974, copies of the foregoing Plaintiff's Supplementary Answers to Defendants' Interrogatories were placed in the United States mail, postage prepaid, addressed to counsel for the defendants:

Roy M. Cohn, Esquire
Saxe, Bacon, Bolan & Manley
39 E. 60th Street
New York, New York 10021



DONNA GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

JSP:FES:NB:car
DJ 175-51-28

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ NOV 6, 1974 ★

SEP 17 1974

Honorable Edward R. Neaher
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Dear Judge Neaher:

On September 11, 1974, we received a copy of a letter sent by Mr. Roy Cohn to Magistrate Catoggio in which he states that he has requested that the above-captioned suit be placed on the trial calendar. As our responding letter to Magistrate Catoggio (a copy of which is enclosed) indicates, we believe there are important matters remaining outstanding which need to be settled before this case is set for trial.

For example, defendants have made objections to plaintiff's August 13th Request for Production of Documents. The parties are now awaiting a determination by Magistrate Catoggio as to the permissibility of this requested discovery. Moreover, we intend, in the very near future, to file a motion to Strike defendants' July 26th Notice of Motion and Supporting Affidavits which seek disciplinary action against plaintiff's counsel for alleged misconduct. As you may recall, on August 8, 1974, after the hearing on plaintiff's Order to Show Cause, the parties met with Judge Catoggio. At that time the defendants decided to withdraw their contempt motion from the calendar, but refused to agree to a full withdrawal with prejudice.

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Plaintiff believes that allowing this motion to remain in its present state of limbo only serves to further cloud the issues in this lawsuit. It additionally unduly prejudices the reputation of one of plaintiff's counsel with charges which we are prepared to prove are totally without foundation.

The United States wants an early and expeditious trial in this case in keeping with the requirements of 42 U.S.C. 3613. In fact, this lawsuit could have already been tried had it not been for the continued delays and dilatory tactics occasioned by the defendants and their counsel. However, we do not believe that with these outstanding issues still unresolved, this case is now ready to be set for trial. Therefore, we respectfully urge that this case not be placed on the trial calendar until the resolution of these open matters.

Respectfully yours,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By: *Norman P. Goldberg*

NORMAN P. GOLDBERG
Attorney
Housing Section

cc: The Honorable Vincent A. Catoggio
Roy M. Cohn, Esquire

SEP 13 1974

JSP:FES:DFG:car
DJ 175-52-28

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ NOV 6, 1974 ★

Honorable Vincent A. Catoggio
Magistrate, United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Dear Judge Catoggio:

We have just received a copy of Mr. Roy Cohn's September 5, 1974, letter to you in which he contends that our response to defendants' objections to plaintiff's Request for Production of Documents in the above-captioned case was so untimely as to render the issue "academic." While we hesitate to burden you with additional correspondence on this matter, we believe the letter raises issues requiring a short response.

On August 20, after being informed by the United States Attorney's office that Mr. Cohn had objected by letter to our request to inspect records in Norfolk, Virginia, we delivered a letter to you which advised that we intended to respond fully to these objections. You may recall that on September 3, I advised your Honor by telephone that I was on that date mailing, by special delivery, plaintiff's response. During that conversation, it was my impression that the matter remained open for determination.

Despite Mr. Cohn's assertion that the issue is now "academic," we believe that Plaintiff's outstanding Request for Production of Documents, noticed on August 13, 1974, remains active and survives the September first discovery

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deadline. Indeed, if plaintiff's September third response is deemed to be untimely because it comes after the discovery deadline, defendants would succeed in defeating what would otherwise be permissible discovery by making informal objections at the eleventh hour.

Mr. Cohn also indicates that he has asked Judge Neaher to fix an early trial date. We have, as yet, received no notice from the defendants, either formal or informal, that they have requested that this case be put on the trial calendar. However, we will be contacting Judge Neaher to advise him that we believe there are certain matters remaining outstanding in this lawsuit which need to be settled before this action is set for trial. These include our request to inspect records in Norfolk, Virginia, and a forthcoming motion which we intend to file to have defendants' July 26 notice of Motion and supporting Affidavits, which seek to have plaintiff's counsel held in contempt of court, stricken from the record.

Respectfully yours,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By:

DONNA F. GOLDSTEIN
Attorney
Housing Section

cc: Honorable Edward R. Neaher
Roy M. Cohn, Esquire



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number
JSP:FLS:DFG:car
DJ 175-52-28

SEP 13 1974

Honorable Vincent A. Catoggio
Magistrate, United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

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Respectfully yours,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By:


DONNA F. GOLDSTEIN
Attorney
Housing Section

cc: Honorable Edward R. Neaher
Roy M. Cohn, Esquire

Saxe, Bacon, Bolan & Manley

39 EAST 68TH STREET
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MICHAEL ROSEN
DANIEL J. DRISCOLL
HAROLD SCHWARTZ
MELVYN RUBIN
JEFFREY A. SHUMAN
LORIN DUCKMAN

September 5, 1974

Honorable Vincent A. Catoggio
Magistrate, United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

IN CLERK'S OFFICE
J. S. DISTRICT COURT E.D. N.Y.
★ NOV 6, 1974 ★

Re: United States v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Dear Judge Catoggio:

On August 14, 1974 Your Honor fixed September 1, 1974 for the completion of all discovery in the above entitled matter. The Government noticed a bunch of depositions in addition to the 13 they had already taken, and requested a volume of new records pertaining to the buildings involved.

We promptly advised that we would object to none of the depositions and would supply all of the records. The only exception, which we set forth in a letter to Your Honor dated August 20, 1974, was our objection to the attempt to ring in some buildings in Norfolk, Virginia which were never mentioned during its pendency until 10 days before the conclusion of discovery. We received no objection to our letter of August 20, 1974, stating that we would supply all of the witnesses and records requested except for the extension to the Norfolk buildings, and assumed that that ended the matter. We went ahead and completed the depositions and produced the records.

The date for conclusion of discovery passed on September 1, 1974. Now, on September 5, 1974, I received in the morning mail a reply to our letter of two and a half weeks ago (August 20, 1974), raising the Norfolk issue again.

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Page Two
June 21, 1974

Instead of holding this conference on June 27, 1974 at 4:30 P. M. we are scheduling it for August 2, 1974 at 4:30 P. M. Should you wish a time earlier than that day we will accomodate you.

Very truly yours,

VINCENT A. CATOGGIO
United States Magistrate
Eastern District of New York



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

SEP 3 1974

Address Reply to the
Division Indicated
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JSP:FES:DFG:car
DJ 175-52-28

IN CLERK'S OFFICE
J. S. DISTRICT COURT E.D. N.Y.

★ NOV 6, 1974 ★

Honorable Vincent A. Catoggio
Magistrate, United States
District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Dear Judge Catoggio:

This is in response to Mr. Cohn's letter to you dated August 20, 1974, in which he objected to plaintiff's Request for Production of Documents from apartment buildings owned by the defendants in Norfolk, Virginia. Since he proceeded informally by letter, we are doing the same, rather than filing a formal motion.

Mr. Cohn's objection appears to be based essentially on two grounds: relevancy and timeliness. Specifically he contends that the plaintiff is not entitled to any discovery with respect to apartment buildings in Norfolk, Virginia, because the United States made no allegations of discrimination in Norfolk either in its Complaint or in its Answers to Interrogatories. He further argues that the request is untimely because it comes on "the eve of conclusion of discovery." We believe that such documents are properly discoverable and that the issue of lack of timeliness has been inequitably raised, since any lateness was directly created by defendants' continuous postponements and delays during discovery.

Before directly dealing with defendants' specific objections, we respond to defendants' repeated contention that plaintiff should have had its evidence before bringing this lawsuit,

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rather than relying on discovery. As plaintiff's answers to interrogatories and its forthcoming supplemented answers will indicate, the United States has a substantial amount of evidence, quite independent of discovery, indicating discriminatory housing practices. Before filing a Complaint under 42 U.S.C. 3601 et seq. the Attorney General must have "reasonable cause" to believe that the defendants have engaged in a pattern or practice of discrimination. If defendants believe that such reasonable cause does not exist, the appropriate remedy would have been a motion for summary judgment which would have tested the credibility of their oft-repeated generalizations. Defendants having failed so to move, each party is entitled to discovery, both to discover additional evidence and to prepare to meet its adversary's case. Considering that the Trumps control in excess of 12,000 units, our discovery has been modest in comparison to what occurs, for example, in the typical antitrust case.

To support the allegation that the United States is not entitled to information with respect to buildings outside of New York City, defendants represent that Judge Neahr found plaintiff's Complaint too general. In fact, on January 25, 1974, Judge Neahr denied defendants' motion for a more definite statement and directed the defendants to seek its specifications through interrogatories. It is also alleged that plaintiff has heretofore made no mention of buildings outside New York. This too is incorrect and we respectfully direct your Honor's attention to paragraph 3 of the Complaint which states that the defendants own and operate apartment buildings in "New York City and elsewhere" (emphasis added) and to page 29 of the Deposition of Donald Trump, where plaintiff attempted to obtain information about these very buildings now in dispute. Mr. Cohn at that time objected to the pursuit of the issue, based on his "reading" of the Complaint contrary to its terms.

Even if our attempt to inspect Norfolk records were a "fishing expedition," that would not be controlling, for "no longer may the time-honored cry of fishing expedition serve to preclude a party from inquiring into the facts underlying his opponent's case." Hickman v. Taylor, 329 U.S. 495, 507

(1947). In any event, this is no fishing expedition. Our forthcoming supplemental answers to interrogatories will disclose alleged discrimination at Trump's Norfolk properties.

We will not burden your Honor with citations for the incontestable proposition that the discovery rules are to be liberally applied, and that discovery extends not only to matters that are admissible in evidence but also to those that may lead to the discovery of admissible evidence. The Complaint alleges that defendants have engaged in a "pattern and practice of discrimination." If defendants were to introduce evidence, for example, that their Norfolk operation is fully integrated, that it affirmatively advertises to attract blacks into a white area, etc., that evidence would surely be receivable. For that reason alone, plaintiff is entitled to discovery to prepare for it.

Conversely, if plaintiff's discovery in fact discloses discriminatory practices at apartments outside New York City, that evidence would be admissible toward proving such a "pattern or practice." In the debates on the 1964 Civil Rights Act, Senator Humphrey remarked that:

"there would be a pattern or practice if, for example, . . . a chain of motels or restaurants practiced racial discrimination throughout all, or a significant part of its system. 110 Cong. Rec. 14270 (June 18, 1967).

Defendants' assertion that discovery may not be secured outside the parameters of the specific discriminatory incidents listed in our answers to interrogatories, prepared before discovery began is inconsistent with the very purposes of discovery, for the Rules are designed to enable the parties to discover all pertinent facts. This is particularly true in Civil Rights cases, in which "statistics tell much and courts listen," United States v. Youritan Construction Corp., 370 F. Supp. 643 (N.D. Calif. 1973) and cases cited, and the overall statistical picture is therefore critical. In Burns v. Thiokal

Chemical Corp., 483 F. 2d 300 (5th Cir. 1973), a suit brought under the Equal Employment Opportunity Act, Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq., a statute almost identical in respects here pertinent to the Fair Housing Act, the district court had limited plaintiff's discovery to only those employment records relating directly to the specific incidents of discrimination which had precipitated the lawsuit. The Court of Appeals for the Fifth Circuit reversed, holding that this limitation was an abuse of the district court's discretion. The court allowed full discovery of records relating to the employment of all of the defendants' employees, stating:

Our wide experience with cases involving racial discrimination in education, employment, and other segments of society have led us to rely heavily in Title VII cases on the empirical data which show an employer's overall pattern of conduct in determining whether he has discriminated against particular individuals or a class as a whole. (Emphasis added), 483 F. 2d 300, 305 (5th Cir. 1973).


If a defendants' overall practices are relevant in a suit on behalf of an individual plaintiff, they are even more relevant in a pattern and practice case, in which admissibility is very broad. Evidence of a pattern and practice can go back "many many years." Kennedy v. Lynd, 306 F. 2d 222, 228 (5th Cir. 1962) cert. den. 371 U.S. 952 (1962). Moreover, if the United States proves its allegations, it will be entitled to broad injunctive relief. Louisiana v. United States, 380 U.S. 145, 154 (1965). The Court of Appeals for the Fifth Circuit has recently held that injunctive relief may be available as to all of defendants' operations upon a showing of discrimination only at some of them. Brennan v. Fields, 488 F. 2d 443 (5th Cir. 1973). If the other complexes are relevant to relief, it is surely imperative that sufficient facts be discovered to ensure that the relief fit the operation.

We would like to briefly address ourselves to defendants' ironic claim that plaintiff's request is untimely. First, the request came on the date specified by your Honor. Second, without burdening your Honor with the long list of cancellations and delays occasioned by defense counsel during discovery, we earnestly request that you consider our prior submissions on this question particularly pp. 4-6 of plaintiff's Memorandum in Support of its Motion for Sanctions, and our recent Status Report on discovery. These passages show that the experience encountered by you at the original hearing on discovery, when defense counsel showed up several hours late, was no aberration. It is because of the delays here described, and our attempt to secure discovery in an orderly and logical pattern, that we have only now requested records inspection as to complexes outside New York City. In the Status Report we address ourselves to defendants' failure to answer several of the United States' interrogatories even after two motions to compel. If these interrogatories had been answered, some of the information we are now seeking would be unnecessary. At the January 25 hearing, Judge Neaher stated that if the defendants were to find the United States' interrogatories burdensome, "you will then be faced with the Government's demand for production; the right to inspect and copy your records." (Tr. p. 38).

The United States has attempted to meet the discovery deadline which you set at the August 8 meeting in your office by moving swiftly to apprise the defendants of the remaining discovery we wished to secure. We think the defendants must now accept their share of the responsibility for this Request coming on the "eve of conclusion of discovery." The United States therefore respectfully requests that defendants be required to produce the requested documents.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By: 
DONNA GOLDSTEIN
Attorney
Housing Section

cc: Mr. Roy Cohn
Attorney for the Defendants

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.
★ NOV 7 1974 ★

TIME A.M.
P.M.

-----x
UNITED STATES OF AMERICA, :
 :
 -against- :
 :
 FRED C. TRUMP, et al., :
 :
 Defendants. :
-----x

73-C-1529

United States Courthouse
Brooklyn, New York

October 24, 1974

B e f o r e :

HONORABLE EDWARD R. NEAHER, U.S.D.J.

DANIEL D. SIMON
OFFICIAL COURT REPORTER

Daniel D. Simon

59

1
2 Appearances:3
4 DAVID G. TRAGER, ESQ.
5 United States Attorney
6 for the Eastern District of New York7 BY: FRANK E. SCHWELB, ESQ.
8 -and-
9 NORMAN GOLDBERG, ESQ.
10 Assistant U.S. Attorneys11
12 ROY M. COHN, ESQ.
13 Attorney for Defendant
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1 MR. SCHWELB: May I make a few opening remarks,
2 your Honor --

3 MR. COHN: Before he makes his opening remarks,
4 we are ready to go forward, however, there are three
5 witnesses we hope to call that couldn't be here today,
6 but I would like the conclusion of this morning's hear-
7 ing to ask your Honor to give us another date.

8 But we are ready, your Honor.

9 MR. SCHWELB: Your Honor, in relation to that,
10 as you know, we asked Mr. Cohn to answer some interroga-
11 tories. And he gave a representation here in open
12 Court that these would be the witnesses.

13 I -- He has not answered the interrogatories
14 further nor would he tell me on the telephone on Friday
15 or Thursday who the witnesses are he cares to call.

16 MR. COHN: It is very simple. The witnesses
17 whose affidavits we have attached to these very papers.

18 MR. SCHWELB: The Zisselmans?

19 MR. COHN: There are two we propose to call.
20 And the third one is a man named Dan Bronfman.

21 MR. SCHWELB: Just a few opening remarks, your
22 Honor, as you know, this matter arose when rather casually
23 and matter of factly my colleage, Mr.Cohn, filed some
24 affidavits which accused my colleagues in the Civil
25 Rights Division, Mr. Brachtel, of staging a gestapo

1 raid on the Trump office and bypassing counsel. He
2 claimed that Miss Dona Goldstein, a young and promising
3 attorney, had engaged in criminal and unethical conduct
4 which included threats to witnesses about perjuring
5 themselves, and wire tapping, or talking to people,
6 and that we wiretapped the Trump offices and we knew
7 from wiretaps that they were lying and all kinds of
8 terrible things.

9 And unlike the defense counsel we do not treat
10 this as a minor matter, but with the greatest of serious-
11 ness.

12 We determined to lay out the facts before the
13 Court in an evidenciary hearing so that the Court could
14 make up its own mind as to whether these charges had
15 any merit to them.

16 Your Honor will recall that we immediately pro-
17 pounded interrogatories and the Court signed an order
18 to show cause to get an immediate response to those
19 interrogatories.

20 We also took depositions of a couple of the pro-
21 posed witnesses. And then we went before Magistrate
22 Catoggio -- and I don't know if your Honor has been in-
23 formed about this -- and Magistrate Catoggio suggested
24 to Mr. Cohn that he withdraw this entire thing. And
25 Mr. Cohn said he wouldn't withdraw it. He would just

1 drop it from the calendar. But that would leave the
2 charges hanging over Miss Goldstein indefinitely. That
3 is not acceptable to us or not acceptable to me as
4 Miss Goldstein's supervisor.

5 I do not want one of our attorneys to be so un-
6 fairly treated. I do not want a cloud over her head
7 in her professional life -- for the remainder of her
8 life without being heard.

9 So now therefore I ask for an evidenciary hear-
10 ing and want to have it today.

11 Now, with respect to the storm trooper raid busi-
12 ness which Mr. Cohn had in his affidavit and the letter
13 from his colleague, Mr. Manley, I think we can establish
14 by the testimony of Miss Goldstein and Mr. Brachtel,
15 and by documentary proof, that this affidavit about
16 something at which neither Mr. Cohn or Mr. Manley was
17 present, that that didn't happen like anything that
18 was represented there and we will be able to show as
19 a matter of fact, to use Judge Wisdom's phrase, that
20 that count about storm troopers and gestapo raids re-
21 calls the eery atmosphere of never-never land.

22 And with respect to the allegation against Miss
23 Goldstein personally, the discovery and the depositions
24 of these two witnesses disclose a number of gross con-
25 trasts and extraordinary circumstances.

1 Mrs. Falcone in her affidavit says that two
2 attorneys intimidated her in her affidavit, abused
3 her, and on her deposition she said it was only one,
4 Miss Goldstein. A lot of conclusions were based on
5 inferences.

6 In her affidavit, for example, she said that
7 Miss Goldstein accused her of dating Mr. Trump --

8 MR. COHN: Your Honor, I hate to interrupt but
9 is this summation? If it is an evidenciary hearing
10 why don't we hear what the witnesses say without hav-
11 ing Mr. Schwelb, before they say it, tell your Honor
12 what it is --

13 MR. SCHWELB: I am outlining my proof, your Honor.

14 THE COURT: Well, he says he is outlining his
15 proof. Of course I have read the affidavit already sub-
16 mitted which I assume you are summing up?

17 MR. SCHWELB: All right, your Honor, I will
18 shorten it.

19 Now, with respect to Mr. Miranda I just wanted
20 to state that he testified on deposition that he ran
21 from Mr. Trump and said he didn't want -- that is Donald
22 Trump -- to be involved with his lousy case, and that
23 the proof -- much of his testimony was to the effect
24 that what he didn't like about Miss Goldstein was that
25 she was trying to compel him to be involved in a case he

1 didn't want to be involved with.

2 Now, both of these witnesses said pleasant good-
3 byes. Mrs. Falcone it will be shown had -- I am sorry
4 -- Miss Goldstein had coffee and cake with him at the
5 conclusion of these terrible intimidations that she
6 performed.

7 And I think it will be shown that that is not
8 the kind of conduct -- the kind of reaction you have
9 to somebody who is saying this kind of thing. That
10 wasn't all we discovered.

11 Now, your Honor, we have become accustomed in
12 this case to events and circumstances which have oc-
13 casionally made me rub my eyes in astonishment that
14 they are happening.

15 For example we had a hundred million dollar
16 counterclaim filed by defense counsel in this case --

17 MR. COHN: Excuse me. Your Honor, does this bear
18 on the contempt motion before your Honor today?

19 THE COURT: I do not think it really has a direct
20 bearing. I will give you an opportunity, Mr. Schwelb,
21 if you feel it is necessary, to sum up in these matters
22 at the end of the case.

23 MR. SCHWELB: All right.

24 THE COURT: Now, before we go any further I
25 realize that you have some witnesses available here and

1 are ready to put them on.

2 Is it still your desire, Mr. Cohn, to pursue
3 this matter on a litigated basis or are you open to
4 the suggestion made by the magistrate or have you con-
5 sidered the position that you should completely with-
6 draw these charges?

7 MR. COHN: The magistrate never suggested that
8 we completely withdraw your Honor. I think what we all
9 felt, including Mr. Schwelb, before he had fifth
10 thoughts on this, is that what we would do is put the
11 motion over until after trial, and then I thought it
12 was indicated that probably as these pre-trial things
13 have a way of doing, when the actual battle takes
14 place and that the trial is over, they usually get
15 worked out and disappear. In other words, we were not
16 going to press -- it is our motion -- and we were not
17 going to press our motion at all at this point .

18 And Judge Catoggio resolved it by saying he
19 would request that it be marked off the calendar, and
20 that he felt that that would be the way to dispose of
21 it and to get on to the facts on the trial of the case.

22 That is still our positon. We are perfectly
23 willing to have the motion marked off the calendar with-
24 out prejudice to renew it at a future time which of
25 course would not prejudice the rights of either party.

1 THE COURT: Well, that is not the way Mr.
2 Schwelb sees it. And I must say that there is some
3 good reason evidently because the charges were to have
4 this young attorney held in contempt, and from what
5 appeared on the basis of the affidavits would perhaps
6 be a rather irregular conduct.

7 So it is not quite as simple as letting it hang
8 over as a cloud or a sort of Damocles over the head of
9 someone. And under the circumstances I think we will
10 have to go forward.

11 MR. COHN: Your Honor, I might say that the
12 motion is made in complete good faith. As a matter of
13 fact facts supportive of it become increasing in volume
14 rather than diminishing.

15 We are perfectly ready and prepared to go forward
16 on the motion on an evidentiary hearing.

17 MR. SCHWELB: Let me just say that in conclusion
18 of what I wanted to say here your Honor is that the
19 depositions disclosed that Mr. Cohn had never met Mrs.
20 Falcone until her deposition was taken.

21 THE COURT: I am aware of those facts.

22 MR. SCHWELB: AND that Mr. Trump -- the only
23 thing that they could have known about Mr. Miranda was
24 that Mr. Trump, Sr., testified that he was a liar. And
25 he was interviewed for five to ten minutes by Don Trump

1 and not at all by Mr. Cohn. That is essentially what
2 I have your Honor.

3 THE COURT: Well, all right, why don't you call
4 your first witness.

5 MR. SCHWELB: I think it is Mr. Cohn's motion
6 your Honor.

7 MR. COHN: I have no answer to make. I would
8 rather have the witnesses speak for themselves. All
9 I would do, and I know the Court has read the motion
10 papers. The substance of the motion is that a serious
11 charge was made in the complaint in this case and
12 interrogatories directed by your Honor to make those
13 charges specific as to date and location were furnished
14 I believe, in January or February of 1974.

15 At sometime thereafter Miss Goldstein came into
16 the case. And from then on it took a new turn in which
17 tactics of investigation and conduct toward witnesses
18 were pursued which constitute an abuse of the process
19 of this Court.

20 First witness we would call is Miss Goldstein.

21 D O N A G O L D S T E I N, called as a witness having been
22 first duly sworn by the Deputy Clerk testified as follows:

23 DEPUTY CLERK: What is your full name?

24 THE WITNESS: Dona Goldstein.

25 MR. SCHWELB: I think it is understood that he

1
2 is calling her as an adverse witness.

3 THE COURT: I suppose it would be adverse to
4 the motion obviously.

5 DIRECT EXAMINATION

6 BY MR. COHN:

7 Q Miss Goldstein where are you employed?

8 A Department of Justice, Washington.

9 Q In what particular section of the Justice Depart-
10 ment?

11 A I am employed in the Housing Section of the Civil
12 Rights Division.

13 Q For how long a period of time have you been em-
14 ployed in the Housing Section of the Civil Rights Division?

15 A This December will be two years.

16 Q So that would make it December, 1972, is that
17 right?

18 A Correct.

19 Q And did there come a time when you were assigned
20 a case involving the Trump Management Company?

21 A Yes.

22 Q When were you assigned to the Trump case?

23 A May, 1974.

T1R2
DDS:QM

1
2 Q Before that time had the work that -- the sub-
3 stance of the work you were assigned to do been handled by
4 another lady named Elyse Goldweber?

5 A That is correct.

6 Q In effect you took over for Miss Goldweber, is
7 that right?

8 A Yes.

9 Q May of 1974?

10 A Mr. Goldberg and myself took over.

11 Q You and Mr. Goldberg?

12 A Yes.

13 Q All right, had you had any connection with the
14 Trump case before that?

15 A No direct connection. No official connection at
16 all, but because I worked in the same office that Miss Gold-
17 weber worked in I was aware of the case.

18 Q Had you discussed it with Miss Goldweber from
19 time to time?

20 A Yes.

21 Q You had a general idea of what it was about?

22 A A general idea.

23 Q But would it be fair to say you were not into
24 the specifics very much?

25 A That is correct.

1
2 Q After you were assigned to the case in May of
3 1974 did you familiarize yourself with the legal file in the
4 case?

5 A Yes.

6 Q And did you discover that a complaint was filed
7 by the Housing Section of the Civil Rights Division charging
8 the Trumps with practicing discrimination -- practicing dis-
9 crimination with respect to units in Brooklyn and Queens?

10 A I was familiar with the case prior to that. I
11 knew the complaint and I knew the specifics of the complaint.

12 Q You knew a complaint had been filed about October
13 1973?

14 A Yes.

15 Q Did there come a time when you learned that
16 Judge Neaher had directed the Government, the Housing Section
17 of the Civil Rights Division, to answer certain interrogatories
18 propounded by the defendants?

19 A Yes.

20 Q And those interrogatories -- called for the
21 specification of various items of that charge including when,
22 where, and what location, under what circumstances it was
23 alleged by the Government that these discriminatory acts took
24 place?

25 Are you familiar with that?

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2 A I was familiar with the interrogatories propounded
3 by the defendant, yes.

4 Q Were you familiar with the answers to the inter-
5 rogatories filed pursuant to the Court's order by the Civil
6 Rights Section?

7 A Yes.

8 Q When did you become familiar with the interroga-
9 tories and the answers thereto? Prior to May, 1974, or there-
10 after?

11 A I believe I read them prior to May and of
12 course when I became personally involved in the case I read
13 them again.

14 Q Is it fair to say that your understanding was
15 that the interrogatories propounded and the answers given were
16 for the purpose of putting the defendants on notice as to
17 that which they were being charged in this complaint?

18 A I am sorry, but could you restate that.

19 MR. COHN: Would you read the question please?

20 (Record read.)

21 MR. SCHWELB: Your Honor, I object to the form
22 of the question for the following reason: I think that
23 the trouble that the witness may be having is is he
24 asking her are these the final answers, the only thing
25 that we would refer to in the case until the end of the

1
2 case, or was this proof that we had available at that
3 time. If he would phrase his question to identify which
4 of those two alternatives he is referring to it would
5 not be objectionable.

6 MR. COHN: Of course that anticipates my next
7 few questions.

8 BY MR. COHN:

9 Q But did you have difficulty in understanding
10 the question?

11 A Yes I did. Also, Mr. Cohn, I didn't answer
12 those interrogatories.

13 Q When you took over the case --

14 MR. COHN: Withdrawn.

15 Q Your recollection is that you had read both the
16 interrogatories and the answers thereto before you took over
17 the case?

18 A Yes.

19 Q And after the case was assigned to you in May,
20 1974, you looked at them again, is that right?

21 A Yes.

22 Q Well, what was your understanding as to the
23 purpose of interrogatories and the responses thereto?

24 A My understanding of the purpose of the interroga-
25 tories, as in any case, is to -- the interrogatories asked for

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the specific acts of discrimination that occurred which were known to the plaintiff at the time the interrogatories were answered. And I believe that is the purpose and effect of the interrogatories.

Q And following the filing of the interrogatories certain depositions took place, is that correct?

A That is correct.

Q And during what period of time did those depositions --

MR. COHN: Withdrawn.

Q Those depositions were all taken by your office, weren't they? In other words, the defendants noticed no depositions. The depositions were noticed by the Civil Rights Division of various officers of the defendant and various employees, and a considerable number were taken over a period of time. Can you give us the period of time over which these depositions were taken?

A Well, Mr. Cohn, I believe that some depositions were taking prior to my becoming involved in the case. I can't tell you the exact period of time that these were taken. I was present and took some depositions I believe during June and July.

Q All right, let's take that. You were present at some depositions that were taken during June and July, is that

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right?

A Yes.

O Miss Goldstein, as a result of an examination of the alleged incidents -- by the way, were there about twelve incidents of discrimination set forth in the answers to interrogatories? Does that seem about right?

A That may be correct. Frankly I haven't read the answers recently so that I am not that familiar with the exact number at the moment. If I could look at it I can tell you.

MR. SCHWELB: I wonder if I may interpose an objection as to form. By "incidents of discrimination" does he mean it is an admission of an extra judicial admission of discriminatory policy, or what does he mean?

MR. COHN: I mean numbers put on by the Civil Rights Section 1 through 12 citing specific instances under your Honor's direction of what they claim to be acts as of discrimination over a fourteen year period in the Trump office.

THE WITNESS: I do not believe that that is how the interrogatories were answered.

MR. COHN: The answers that you submitted (indicating).

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BY MR. COHN:

Q Now, Miss Goldstein, did there come a time after you reviewed the answers to the interrogatories with these instances of discrimination, and I suggest to you we will find in a minute they were twelve over a fourteen-year period in some fourteen thousand apartment units, when you examined them and when you listened to the testimony at the depositions you concluded that there was no case?

Is that a fact?

A That is not a fact, Mr. Cohn. That is not anything near it.

Q Did you conclude that an entirely new investigation was called for concerning not events charged in the complaint but events that were taking place months after both the complaint was filed and his Honor's direction that we be given specifics of the charges that were made?

A No, Mr. Cohn, I think you are misconstruing our conduct --

Q Please, Miss Goldstein.

MR. SCHWELB: Will you allow her to answer.

MR. COHN: I think the answer was no.

MR. SCHWELB: Your Honor, could Mr. Cohn be instructed to allow this witness to answer his very probing questions.

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2 THE COURT: Well, what is the state of the
3 record, Mr. Simon, the last two questions and answers.

4 (Record read.)

5 THE COURT: All right, that is the answer.

6 BY MR. COHN:

7 Q Miss Goldstein, didn't you initiate a new in-
8 vestigation of the Trumps?

9 A No.

10 Q Sometime following May, 1974?

11 A No, what we did --

12 MR. COHN: No, ma'am, your lawyer will have his
13 chance to get up if he feels I haven't covered it ade-
14 quately.

15 But if I say did you initiate a new investiga-
16 tion and if you tell me the answer is no I accept that.

17 MR. SCHWELB: Your Honor, excuse me, but I think
18 that she wanted to explain her answer and has the right
19 to do so. I would appreciate Mr. Cohn being instructed
20 not to interrupt her in the middle of answers.

21 THE COURT: Well, I suppose that since Miss
22 Goldstein is in the role of an adversary witness, Mr.
23 Cohn is entitled to conduct his direct examination as
24 in the nature of a cross-examination.

25 Now, so far we really have a statement from Miss

1
2 Goldstein that she did not conclude that there was no
3 case. Right?

4 And as I understand it this last answer was no
5 she didn't conduct or consider that a new investigation
6 was necessary. Is that correct?

7 THE WITNESS: Well, what I understand Mr. Cohn's
8 question to be was did I initiate an altogether new
9 investigation. My answer was no. And I was going to
10 explain that but he didn't give me a chance.

11 BY MR. COHN:

12 Q Well, let me draw upon your words now that I
13 have them.

14 Did you conclude that in the answers furnished
15 to the interrogatories propounded by order of this Court a
16 number of the alleged twelve instances of discrimination were
17 invalid and mistaken on the part of your Section?

18 A Did I conclude that a number of instances were
19 invalid? I had understood one incident to be part of a
20 complex -- I understood one of the instances to be part of an
21 apartment complex that they no longer owned.

22 Q Do you mean that there was a mistake?

23 MR. SCHWELB: I'm trying to be helpful here but
24 there is one problem. Now one doesn't ordinarily examine
25 an attorney about his work product. And that is what

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the examiner is doing. I understand she is an adversary witness but at some point we have to have an end and I suggest that that is now.

MR. COHN: I think if Mr. Schwelb did not talk so much, your Honor, with great respect, we would have an end.

THE COURT: Mr. Cohn, I would have to say I am perplexed.

MR. COHN: May I explain your Honor? May I make an offer of proof?

THE COURT: I didn't mind your eliciting from her her connection with the case, original familiarity with the case, but it seems to me that we are now going into what I certainly regard as strictly lawyer's matters with respect to the conduct of litigation.

They do not seem to me to have any relevance to the issues framed by your motion.

MR. COHN: Well, your Honor, in the nature of an offer of proof, whatever your Honor might wish, the I am going -- and if counsel bears with me I do not think it will take long to get where I am going, is this, there came a time when the Civil Rights Section found that these twelve instances they supplied in the answers to interrogatories were out the window, that

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2 there was no case, and that in certain cases they actu-
3 ally found wrong buildings which the Trumps didn't even
4 own, and at that point Miss Goldstein set upon a course
5 of conduct of using undercover agents, intimidating
6 witnesses, and trying to build an entirely new case
7 not involving these specifics. And that in the course
8 of that committed the acts which are set forth with
9 specificity in this contempt motion.

10 MR. SCHWELB: Your Honor, I move to strike sub-
11 ject if he is not able to prove it. I move to strike
12 that as not proper remarks, as inflammatory and improper
13 and scandalous.

14 THE COURT: Well, of course I merely view it as
15 a lawyer's argument, you understand, statements made
16 to the Court, you know, in an attempt to explain some-
17 thing.

18 I thought that this case was all about certain
19 charges of specific conduct in connection with either
20 the taking of depositions or preparation for the
21 taking of depositions, or examination of records. I
22 certainly didn't think that we were going into anything
23 that had pertained to the merits of the case.

24 I thought that was to be reserved for a future
25 date when we would get down to the merits of the case.

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2 What we are really considering here are the
3 merits of the charges made against this witness. And
4 I understand your desire to probe into motivation and
5 so forth. I think until we know what the real facts
6 are with respect to what did or did not take place,
7 the incidents which formed the basis for your motion,
8 we are going to get nowhere because I am lost right
9 now.

10 MR. COHN: All right, your Honor.

11 (Continued on next page.)

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THE COURT: I understood this to be in the nature of a collateral hearing on some charges of misconduct.

MR. COHN: No problem in that at all. If your Honor looks up paragraphs one and six of my affidavit in support of this motion I think it spells out just what the allegations are.

Your Honor, in using the term motivation, of course that is exactly what I am getting at. There came a time when they felt this original complaint was out the window and embarked on a series of totally improper tactics in the guise of a pre-trial period which was set forth with some specificity -- examples are set forth in the papers supporting this motion before your Honor. And I would be very glad to turn to specifics right now.

THE COURT: Well, I would have to have a considerable demonstration that that was the case. My recollection of the events here is that that occurred within the regular framework of the progress of the litigation that had begun.

Now whether that litigation has merit or not is something to be determined. It may be that you would be making all the statements to the Court at some point, I don't know, when we have a full exposition of what the

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2 facts are with respect to the allegations of the com-
3 plaint. What we are concerned with here, as I see it,
4 are allegations made against the witnesses. And that
5 is something quite collateral, to my way of thinking,
6 and I would like to get down to some proof on that
7 score.

8 Now, I don't know exactly what your further
9 plan is with respect to Miss Goldstein but it would
10 certainly seem to me that we ought to get down to some
11 of these specifics that you said in your affidavit in
12 paragraph --

13 MR. COHN: Paragraph one and six in my affidavit,
14 your Honor, state in general terms our complaint concern-
15 ing the manner in which Miss Goldstein has been con-
16 ducting this investigation which we say is violative
17 of the rights of the defendants, of the perspective
18 witnesses, and is totally improper pre-trial procedure.

19 And I will turn to specifics right this minute
20 your Honor.

21 THE COURT: All right.

22 BY MR. COHN:

23 Q Do you know somebody named Stephanie Bush?

24 A Yes, I do.

25 Q Did you send Stephanie Bush in as an undercover

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agent into Trump buildings in July of 1974 --

A No.

Q -- in other words two months ago.

A No, I did not.

Q Did you discover that Stephanie Bush had been sent into Trump buildings as an undercover agent concealing her identity in July, 1974?

MR. SCHWELB: I object to the term "undercover agent." If you want to know about Miss Bush she is a tester for the Fair Housing Group.

Q Do you know a tester for the Fair Housing Group by the name of Stephanie Bush?

A Yes.

Q When did you meet Miss Bush?

A I believe it was in August of 1974.

Q Does she work for the Urban League?

A Yes, she does.

THE COURT: Am I mistaken? I believe that this occurred after the events which form the basis for your motion.

MR. COHN: Oh, no, I think it came before.

THE COURT: It came before?

MR. COHN: Oh yes. Specifically your Honor, I think that Miss Bush, according to my information, was

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2 contacted at the Urban League by the Civil Rights
3 Section, according to my information, in June of 1974.
4 That Miss Bush set about on her testing campaign there
5 at the beginning of July, 1974.

6 In fact it was one of the factors motivating the
7 bringing of this motion.

8 MR. SCHWELB: If your Honor please, there is not
9 one word about Miss Bush in Mr. Cohn's motion. We
10 propounded interrogatories with respect to that and
11 he didnt mention it and I move to preclude that.

12 MR. COHN: Your Honor, I do not think it is pre-
13 cludable. I think there is enough in the general alle-
14 gations where I was not required to set forth the
15 name of every witness to whom this has been done or
16 every tactic which Miss Goldstein has done.

17 Now, with reference to a motion to preclude that
18 Mr. Schwelb says -- I don't knwo what the remedy on a
19 motion to preclude is -- if it is surprise I should have
20 told him today, I do not think it is. But if he says
21 it is I am perfectly willing to pass on to something
22 else and give him an opportunity to do whatever he sees
23 fit.

24 MR. SCHWELB: Interrogatories call for all the
25 information that had to do with Miss Goldstein's conduct.

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2 He didn't list that. Miss Bush will probably be called
3 as a witness at the trial a month from now and you will
4 be able to determine in full detail what the results
5 of the testing by a black and white tester were from
6 Trump buildings, and they weren't very favorable to
7 Mr. Trump.

8 MR. COHN: You see, your Honor, that gets down
9 to the basics here. Are we trying this case based upon
10 a complaint here on your Honor's direction that we be
11 advised of the specifics or are we trying it on Miss
12 Goldstein's fashioning of a completely new investigation
13 covering not the events charged in the complaint but
14 covering events that allegedly occurred right while the
15 pre-trial on the original complaint was taking place.

16 That is one of the things which we regard as
17 extremely serious in this matter. But after we have
18 been given specificity and told what to meet and go out
19 and start doing it are and are actually in depositions
20 process, to have undercover or testing agents, or how-
21 ever they want to denominate them, sent around day after
22 day to Trump buildings trying to trap somebody into
23 saying and doing something which can have no relevancy
24 to the original charges in the complaint and the speci-
25 ficity your Honor directed we were entitled to have, I

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2 think it is totally improper as a tactic and covered
3 by the purport of this motion by paragraphs one and six
4 of my affidavit, and that it is totally improper -- that
5 it constitutes totally improper conduct on the part of
6 a Government attorney in the middle of a pre-trial and
7 an existing complaint when specifics have been given
8 and a framework of issues drawn under a Court order,
9 and they are subjecting the defendants to undercover
10 agents going in and out of their buildings, lying
11 as to who they are and where they are from --

12 MR. SCHWELB: Your Honor, I appreciate Mr. Cohn's
13 low key presentation. But our answer to interrogatories
14 were amended to disclose the additional testimony.

15 It has nothing to do with the charges.

16 THE COURT: Perhaps I owe you an apology for
17 asking a question which has provoked so much debate.
18 I started off by saying wasn't this a recollection of
19 something happening in August after the motion and now
20 I find this motion was dated July 26, 1974.

21 MR. COHN: Yes.

22 THE COURT: So it did happen after.

23 MR. COHN: No, she just said it. I am going to
24 prove it happened weeks before this motion.

25 THE COURT: Well, her answer, as I understand it,

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2 it this way -- I think that would be the key witnesses
3 that we should be concentrating on here. I don't know
4 what other witnesses Mr. Cohn may have. But unless
5 these pertain to events that occurred prior to making
6 this motion I will rule it all irrelevant.

7 MR. COHN: I have your Honor's ruling.

8 DIRECT EXAMINATION

9 BY MR. COHN: (CONTINUING)

10 Q Miss Goldstein to your knowledge did an under-
11 cover -- did a tester named Stephanie Bush go around to Trump
12 buildings on July 9, 1974, some weeks prior to the making of
13 this motion.

14 MR. SCHWELB: Objection as to relevancy your
15 Honor.

16 THE COURT: Well, do you know or do you not know?

17 A I am aware that a testing was conducted by the
18 New York Urban League and that that testing was conducted in
19 early July, and that the information about that testing was
20 provided to my office, to the Department, I believe sometime
21 after the events occurred.

22 Q When do you say you first learned of this
23 Stephanie Bush going around to the Trump buildings in this
24 capacity?

25 A Do you want an exact date? I don't have an exact

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date.

Q Didn't you speak to someone in the Urban League?

A Oh, I met with Mrs. Betty Hoeber at the Urban League. Mr. Goldberg and I met with Miss Hoeber.

Q When did you first meet with Miss Hoeber?

A I believe it was in June.

Q Yes. Well, you are sure it was in June, aren't you, Miss Goldstein? You don't have any doubt about that, do you?

It was before Miss Bush started marching around to the Trump buildings, wasn't it?

A It was before testing, yes, definitely, when I met Miss Hoeber.

Q When you told his Honor you didn't meet Miss Bush until around July, you are not quite sure -- I am sorry -- around August and you are not quite sure but it was around August, the fact is you had met Miss Bush's superiors back in June, had you not?

MR. SCHWELB: He is misquoting the testimony.

MR. COHN: I will withdraw the question.

Q Did you meet Miss Bush's superiors in June?

A I met Betty Hoeber then, yes.

Q Who is Betty Hoeber?

A I don't know what her title is, but Betty Hoeber

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is the director of the Open Housing Center which is an arm of the New York Urban League.

Q Did you discuss with Betty Hoeber the sending of agents around to Trump buildings?

A Did I discuss with her? Miss Hoeber stated that she might send some testers.

The Urban League had provided us with some information and their clients were a number of the people we have listed in our interrogatories.

Miss Hoeber was interested in the case and indicated that she might do some more testing. They weren't agents of ours in any way.

Q Did you ask Mrs. Hoeber to have the testing? Can you answer that yes or no?

A I don't believe I asked Miss Hoeber to do the testing.

THE COURT: I was just about to ask you is it far to say that some of the information involved in the allegations of the complaint were predicated on information supplied by the New York Urban League? Is that so?

THE WITNESS: In the original complaint?

THE COURT: Well, I realize you were not in the case originally. But did you learn that at any time

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2 that the Urban League group had supplied information
3 which --

4 THE WITNESS: Yes.

5 BY MR. COHN:

6 Q Now, who initiated the meeting with Mrs. Hoeber
7 in June, you or Mrs. Hoeber?

8 A I don't recall.

9 It's part of my job we meet with representatives
10 of fair housing groups on a regular basis.

11 In fact I believe I met with Mrs. Hoeber not
12 for the purpose of discussing Trump, but to discuss another
13 project that she was doing -- that the Open Housing Center
14 was doing in New York, about a conference they were planning
15 on having, I believe -- it may not have been that conference --
16 but at another project, and it was during my meeting with her,
17 I believe, we talked about it possibly.

18 Q Did you tell Miss Hoeber in words or in substance
19 that your Section pursuant to an order of the Court had al-
20 ready furnished answers to interrogatories setting forth the
21 acts which you claim were committed in this case, and that the
22 case was as of June, 1974, in the depositions, pre-trial
23 stage?

24 A I don't know whether the depositions stage is
25 any different than the normal discovery stage of litigation.

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Q I will take it any way you want.

A I don't recall whether I specifically told Miss Hoeber that we had answered interrogatories. It is possible that I stated that we provided -- the first answers to interrogatories were provided before I became involved in this case, and she may have known, Miss Hoeber, I have no idea.

I have no recollection of whether or not I said anything. I may have mentioned the answers to interrogatories. I have no recollection of it.

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Q Did you ask Miss Hober to keep quiet the fact that you had knowledge of her sending this undercover agent around in July of 1974?

A Are you talking about the tester?

Q Yes.

A Did I ask Miss Hober to keep quiet?

Q The fact that she and you had discussed the sending of this agent around?

A I may have indicated to Miss Hober that I was not asking her to do this.

Q Did you say in words or substance to Miss Hober it might not be the right time at this point to be sending agents around to the truck buildings because we have already presented our case, but if you do it on your own, that is your business and I would be very happy to receive any information that you can give us?

A I don't believe that would be a correct statement of anything that I would have said to Miss Hober.

Q Well, I don't want what you would have said. I want your recollection of what you did say.

A I didn't say to Miss Hober that we have already presented our case and it wouldn't be appropriate for me to -- because we presented our case it wouldn't be appropriate for me to do the testing. What I may very well have said

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2 to Miss Hober is that I would not initiate any testing. That
3 if the Urban League wished -- They had indicated that they
4 had a plan on testing and I said I wasn't going to initiate
5 any testing and get the Department of Justice involved in
6 any testing.

7 Q And having said that, did you receive infor-
8 mation from Miss Hober from time to time thereafter,
9 specifically in and about the middle of July concerning the
10 reports of this lady who was marching around the truck
11 buildings?

12 MR. SCHWELB: I object to the characterization.

13 MR. COHN: I will withdraw the words "marching
14 around".

15 Q (continuing) who was presenting herself at
16 various buildings involved in this case?

17 A Yes, I did. I received information from the
18 Open Housing Center. And I would like to --

19 Q Is there any difference between the Open
20 Housing Center and the Urban League?

21 A It is an arm of the Urban League.

22 Q An arm of the Urban League? It is a private
23 organization; is that correct?

24 A I have no idea. I guess it may be.

25 Q Now, just one last question on this point:

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2 I used the word undercover agent, and you
3 corrected me and used the word tester.

4 Let me ask you this:

5 To your knowledge, when this lady, Stephanie
6 Bush, went to these Trump buildings at the beginning of July,
7 1974 and thereafter, did she identify herself as coming from
8 the Urban League?

9 A I don't believe that she did.

10 Q And in fact, the impression -- would you agree
11 -- the impression -- would you agree with me that the last
12 thing she wanted superintendents to know was that she came
13 from the Urban League?

14 MR. SCHWELB: It calls for a conclusion of
15 somebody else and a mental operation. But I think we
16 all know what testers are for.

17 THE COURT: Well, I think so. I do not see
18 how this witness can invade somebody else's state of
19 mind. All right.

20 Q To your knowledge, did Miss Bush ever tell
21 one Trump employee that she was connected with the Urban
22 League based upon any reports that you have received from
23 Miss Bush whenever you met her, or from Mrs. Hober, whenever
24 you met her, or from anyone else connected with the open
25 housing or Urban League?

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2 MR. SCHWELB: Now, your Honor, this calls for
3 a hearsay answer. Furthermore, we will stipulate and
4 we will concede and we will be happy to tell Mr. Cohn
5 that when testers go to test a building, they don't
6 identify themselves as testers because if they did,
7 the test wouldn't work and it wouldn't give a
8 representative example of the conduct they are trying
9 to determine, and in this case did determine.

10 Q Well, before --

11 MR. COHN: Strike that.

12 Q At the time you had this conversation with Miss
13 Hober, in which this testing was discussed in June of 1974,
14 did you consult with any of your superiors in the Justice
15 Department as to the propriety of this?

16 MR. SCHWELB: Objection. Work product.

17 THE COURT: I do not think it has relevance to
18 what we are trying to determine here.

19 Q Now, during this same period of time, namely
20 following your entry into this case in May of 1974 until
21 July 26th, 1974, which I would fix under his Honor's ruling
22 as the parameter of this motion, certainly, did you have
23 occasion to make up a list of former Trump employees whose
24 names were not set forth in the information supplied to us in
25 February, 1974 in answer to our interrogatories?

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A I am afraid I am confused by the question.

Q Are you really? Maybe I can restate it if you are confused.

At the time of your entry into the case, there had already been furnished to the defendants interrogatories containing specific incidents and the names of witnesses.

Do you recall that?

A Are you talking about the original answers to interrogatories?

Q I am talking about answers to interrogatories.

A Right.

Q You are clear about that?

A Yes.

Q After you came into the case, which was some months later, did you make up a list of former employees of the Trump organization which were not mentioned?

MR. SCHWELB: This is some more work product. I wish you would get to the incidents that she spoke of --

MR. COHN: I have no interest in their work product. I am getting right to the incident.

Q Did you make up such a list?

THE COURT: I will allow that question.

A We conducted a records inspection in June of

1
2 1974. At that records inspection we did make a list of
3 Trump employees, present and former, from payroll records
4 that were produced pursuant to notice of records inspection.

5 Q About when was this?

6 A In June, 1974.

7 Q Did you turn this list over to the FBI?

8 A Did I turn that list over to the FBI? No, I
9 did not.

10 Q Did you turn the information from that list
11 over to the FBI?

12 A Pursuant to information I received from that
13 list I requested, as in the normal course of our conducting
14 litigation investigation, I asked -- made this request that
15 the FBI conduct certain interviews.

16 People we request to be interviewed, some of
17 those names were furnished from the list that we secured from
18 the records inspection.

19 Q Now, would it be fair to say that the FBI
20 agents conducted these interviews under your direction?
21 Were you the person in charge of the Justice Department?

22 A No, not really.

23 Q Under whose direction did they conduct it?

24 A I may have -- some of them -- there have been --
25 there is a lot of paperwork involved. My name may be on it.

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Mr. Goldberg's name may be on it. All our requests are reviewed and finally sent out by Mr. Schwelb or two of his deputies.

Q Did you request the FBI to contact a lady Carol Falcone?

A I believe I did, yes.

Q Do you have any doubt about that?

A I believe she was on the list that I sent out. A number of requests were sent out.

Q A number of anything might have happened. All I want to know is, as you are sitting in that witness chair were you the one who told the FBI to interview Carol Falcone?

A I advised Mr. Goldberg. I believe we both -- I don't know which one she was on. One of us did.

Q Were you aware of the fact that sometime before the FBI appeared, if the evidence is so going to show, at Miss Falcone's home at 10 o'clock at night, you were the one who told the FBI to go?

MR. SCHWELB: Your Honor, first of all I object to that entire tone which is unnecessary, and, second, the question is so confusing that I would object to the form.

MR. COHN: I will be glad to withdraw it.

Q Could you tell us simply, did you tell the

1
2 FBI to go to interview Carol Falcone or did you have
3 knowledge that any of your colleagues told the FBI to go
4 to interview Carol Falcone?

5 A Either myself or my colleagues requested that
6 the FBI conduct an investigation or to interview certain
7 former employees, and Miss Falcone was one of them, Mr.
8 Cohn.

9 THE COURT: I think that has been answered.

10 MR. COHN: The answer is yes.

11 MR. SCHWELB: Your Honor, will he stop testify-
12 ing, please? The presence of the witness is highly
13 superfluous if he tells us what the answer is.

14 MR. COHN: If I could get straightforward
15 answers, your Honor --

16 THE COURT: I think the answer was straightfor-
17 ward, Mr. Cohn.

18 Q Now, did you tell the FBI that you wanted to
19 talk to Miss Falcone?

20 A What I believe I said was that after I had
21 interviewed Miss Falcone I contacted the FBI, or Mr. Goldberg
22 contacted the FBI to inform them that we had already contacted
23 Miss Falcone and it would be unnecessary for them to do so.

24 Q Do you want to give me the chronology of this?
25 Is it, as I understand from your last answer, that you told

1
2 the FBI not to get to Miss Falcone? That you, independently
3 of the FBI, tried to reach Miss Falcone? That you reached
4 her first and then called the FBI and said, we have located
5 her, or whatever it might be, and it is not necessary for you
6 to do anything? Is that a fair statement?

7 A I object to the phrase, "get to."

8 Q Other than the phrase, "get to"? Reach?
9 Locate? Find?

10 A We requested the FBI to interview Miss Falcone.
11 I interviewed Miss Falcone. I then contacted the FBI to
12 tell them that I had interviewed her and that it was
13 unnecessary to contact her as well.

14 Q Before you interviewed Miss Falcone, did it
15 come to your attention that FBI agents had gone to her home
16 and at hours after 9 o'clock at night?

17 A Absolutely not.

18 Q When did you first hear about this, if you
19 did?

20 A At the deposition of Miss Falcone, with reference
21 to this hearing -- prior to this hearing.

22 Q That was the first you knew that her mother,
23 her uncle, had been visited by FBI agents at hours --

24 A Absolutely.

25 MR. SCHWELB: Excuse me. It calls for

1
2 innumerable hearsay answers and I want to object to
3 it.

4 THE COURT: Well, I think we are straying again.

5 So the FBI went there and what?

6 Q So the FBI went there. You say it didn't
7 come to your attention until the deposition?

8 A That she had been visited at 10 o'clock at
9 night by any FBI agents, that is correct. Or at any time
10 at night, that is right.

11 Q Did you give to the FBI any ground rules --

12 MR. COHN: I withdraw that.

13 Q Did you have any reason to believe Miss
14 Falcone was anything other than a former Trump employee?
15 That she was involved in anything herself?

16 A No, the only information --

17 Q That's an answer.

18 Did you give the FBI general instructions on
19 what hours these witnesses should be approached?

20 A I didn't give them instructions.

21 Q You do not ever outline the parameters of
22 investigation?

23 A I outline the questions to be asked,
24 information to be received. The FBI is a very professional
25 organization and it never came to my attention that they

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ever conducted themselves unprofessionally.

And certainly it is not my business to give instructions to the FBI. That is generally done elsewhere, as I understand it.

Q Well the fact is you are saying you didn't, in this case?

A I merely sent out a request through our office.

Q With whom were you dealing in the FBI, involving Miss Falcone, specifically?

A Are you asking me who the special agent of the FBI was?

Q Yes. Would this refresh your memory? You said you contacted somebody to say you had located Miss Falcone.

A I don't recall whether I personally made the contact or whether Mr. Goldberg made the contact.

Q And do you recall who was contacted in the FBI?

A We had been working together on it. I know who in New York had been conducting the investigation and who may have been contacted, And Mr. Schwelb -- if he has no objection, I will mention it.

MR. SCHWELB: No, your Honor.

THE WITNESS: Mr. Terrence Cox.

THE COURT: He is a special agent?

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THE WITNESS: A special agent in charge of
this case, yes, sir.

THE COURT: In New York?

THE WITNESS: Yes, that is correct.

THE COURT: He was doing it or in charge of
it, is that correct?

THE WITNESS: From what I understand, that
would be correct. I don't have much contact with the
FBI.

Q Well, did you have much contact with Miss
Falcone?

A I interviewed Miss Falcone.

Q On how many occasions?

A One occasion.

Q How long did the interview last?

A About a half an hour to 45 minutes.

(continued next page.)

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Q About 30 to 45 minutes?

A About that.

Q Where did that take place?

A In her place of business, the Hero Hut.

Q That is a place where they sell hero sandwiches,
I would assume.

A Right.

Q About what time of the day was it?

A I believe I arrives at approximately quarter to
twelve.

Q Was the lunch business in progress while you
were there?

A There was some. It was not very crowded.

Q What time do you say you left there?

A I would think at the latest about 12:30.

Q Did you have occasion to discuss the perjury
laws with Miss Falcone?

A No.

Q Did you tell Miss Falcone in words or in
substance that --

MR. COHN: I withdraw that question.

Q Did you question Miss Falcone concerning her
work for the Trump organization in prior years?

A Yes.

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2 Q After she described her duties did you suggest
3 to her that she wasn't telling the full truth concerning that?

4 A I believe at one point in one specific question
5 I asked Miss Falcone to refresh her recollection, on a
6 specific point that I found it hard to believe, and would
7 she refresh her recollection.

8 Q When you use the words that you found it hard
9 to believe, did you tell her that there are perjury laws
10 which say you can go to jail for up to five years?

11 A Absolutely not.

12 Q You deny that categorically?

13 A Totally.

14 Q Now, did you ask questions dealing with
15 Miss Falcone's personal life?

16 A No. I asked her if she was married -- her age,
17 her occupation. I may have asked her whether she was
18 married. that would be the personal questions I would have
19 asked her.

20 Q Did you ask her if she dated Donald Trump
21 when she worked for the Trump Organization?

22 A Absolutely not.

23 Q Did you ask her where she could have gotten
24 the money to open the Hero Hut?

25 A I hate to be repetitious, but no.

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2 Q I don't think it is repetitious. I think it
3 is the first time I asked that question.

4 Did you tell Miss Falcone in words or in
5 substance that there were records of phone calls that took
6 place at the Trump office and therefore you knew what she was
7 telling you was not true?

8 A No, Mr. Cohn. That would never have crossed my
9 mind.

10 Q Now, do you know somebody named Mr. Miranda?

11 A Yes.

12 Q By the way, I don't think I asked you to fix
13 the date of your interview with Miss Falcone.

14 A I believe it was Friday, August -- was it the
15 19th? I believe it was Friday, August 19th.

16 Q No, it was not August, was it?

17 A Was it July? Wait, I'm a little confused on
18 that.

19 Q I know it was July.

20 A Then it was July 19th. Then it was Friday,
21 July 19th. My dates are wrong.

22 Q Now, did you have occasion to interview a man
23 named Thomas Miranda?

24 A Yes.

25 Q Had you previously asked the FBI to locate

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Mr. Miranda for you?

A No. We knew where Mr. Miranda was. We had already spoken to him.

Q Did you call him?

A Yes, I telephoned Mr. Miranda.

Q Where did you telephone him?

A I telephoned him at his home. Where was I?

Q Where was he when you telephoned?

A At his home.

Q Can you remember when this was?

A It was most -- I believe it was Tuesday of the same week of July 19th. So it would be July 16th perhaps.

Q About what time of the day did you phone the home?

A Midday.

Q Did you have knowledge about where he was working then?

A Yes.

Q Where was he working then?

A Well, he was a superintendent of the apartment building that he lived in. This phone number, his telephone, would be his working and home number from what I believe it to be.

Q Now, was a meeting between you and Mr. Miranda

1
2 set up?

3 A Yes.

4 Q Did you go to his home?

5 A Yes, I did.

6 Q Anybody else present?

7 A His wife.

8 Q How long were you there?

9 A About two hours.

10 Q You were there about two hours?

11 A Correct.

12 Q Did you ask for another interview after you left?

13 A No.

14 Q Did you say in words or in substance to
15 Mr. Miranda that you did not feel he was giving you the
16 whole story?

17 A No, Mr. Miranda -- No, I did not. Mr. Miranda
18 was at first reluctant to speak with me. He never gave me
19 a different story. He told me he didn't want at first to
20 discuss the matter. But I never indicated to him that I
21 felt he was giving me a story that was incorrect or
22 incomplete.

23 Q Did you tell him that you didn't have to
24 discuss the matter?

25 A I indicated -- Mr. Miranda -- he told me he
didn't want to become involved in this lawsuit. That he

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was frightened.

Q Did you at that point advise him of his rights and tell him he didn't have to talk to you?

A Mr. Miranda was, from what I understood, a friendly witness --

MR. COHN: First I would like you to answer this question.

THE WITNESS: May I finish?

MR. COHN: I don't mind you finishing subject to his Honor's instruction. Will you answer my question?

THE COURT: Yes.

A Did I give Mr. Miranda his rights? No, I didn't. He, as I said, was considered to be a friendly witness. He had provided information to us.

Q After the man you thought to be a friendly witness had said that he didn't wish to talk to you, did you advise him of his rights not to talk to you?

MR. SCHWELB: Your Honor, just a minor objection, but the implication in that question is that Mr. Miranda was being charged with a crime and he wasn't. I did not want this question to be understood as being he was entitled to some Miranda warning.

THE COURT: Just because his name was Miranda.

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2 MR. SCHWELB: I missed that. I am sorry.

3 Q I'm not asking you for your mental processes.
4 I'm asking if you had told Mr. Miranda that you do not have
5 to talk to me now if you dn't wish.

6 A No.

7 Q How much longer after he told you he didn't
8 wish to did you remain there?

9 A I remained there for a few hours. Mr. Miranda
10 talked to me and told me why he did not want to get to talk
11 to me.

12 Q Did you help jog his memory --

13 MR. COHN: I withdraw that question. Did you
14 help bring about a change in his position by telling
15 him he could go to jail?

16 A No.

17 Q Did you use the word jail in talking to
18 Mr. Miranda?

19 A No.

20 Q Did you make any threat to Mr. Miranda?

21 A No.

22 Q Did you tell him there were bigger people
23 in the Department of Justice that he was going to have to
24 deal with?

25 A No.

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2 MR. SCHWELB: May I get that back again?

3 MR. COHN: May the record show I am giving
4 Mr. Schwelbe back his Ziesselman statements.

5 Q Do you know two people named Paul and Paula
6 Ziesselman?

7 A Yes.

8 Q Did you interview them?

9 A Yes.

10 Q When?

11 A I believe I interviewed them after I interviewed
12 Mr. Miranda later in the afternoon of the same day. It was
13 during that week. Sometime during the middle of that week.

14 Q Where did you interview them?

15 A At their home.

16 Q Was that in Valley Stream?

17 A I believe it is on Long Island and I think it
18 was Valley Stream. I would have to see their address in the
19 phone book.

20 Q Did you state at or about the conclusion of the
21 interview that you were not satisfied with Mr. Ziesselman's
22 statement to you?

23 A No.

24 Q Did you tell him that unless he was able to
25 furnish more information that you were going to send the FBI

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agents back to them?

A No, what I said to Mr. Ziesselman was that I had requested, as I had to Miss Falcone, that the FBI contact them and interview them. And that now that I had contacted them, that I would try to get in touch with the FBI to let them know that I had seen them so that the FBI wouldn't come to see them. If by chance, I said to them, I miss the FBI and they came, not to be concerned or frightened. They were coming pursuant to a request from me for the same kind of interview that I had already conducted.

Q That was the context in which you referred to the FBI?

A That is correct.

Q You didn't say it in what we might call a threatening context?

A No.

Q And the Ziesselmans, if they so interpreted that, your testimony would be mistaken?

A Yes.

Q Did you know a man named Mr. Herbert Heller/

A Do I know a Mr. Heller? No, I believe he is a former employee that the Bureau did contact.

Q Did you make a phone call to Mr. Heller at midnight at a summer resort at which he was vacationing?

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A What?

Q Did you make a phone call?

A No.

Q Did anyone else to your knowledge?

A I have no knowledge of such phone call.

Q Is this the first you heard of such a suggestion?

A Yes, absolutely.

Q Did you ask the FBI to locate Mr. Heller for you?

A I believe Mr. Heller's name was on it -- was on one of the FBI requests that we sent out, yes, although I don't think it was on the one that I prepared because I don't have any recollection of it.

Q Did the FBI ever report back to you that they had called Mr. Heller at five minutes after midnight?

MR. SCHWELB: Your Honor, first of all, this is outside the scope of the affidavit, and, secondly, I have no idea what time he is talking about.

THE COURT: Is this pre-motion or after motion?

THE WITNESS: I have no idea.

Q When did you ask the FBI to contact Mr. Heller?

A I don't know that I have --

MR. SCHWELB: There is something before the Court, your Honor, I object to that as outside the scope of the motion. Further I think your Honor has

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ruled that if it happened afterwards it is irrelevant.

MR. COHN: I would like to find out when it happened.

THE WITNESS: I don't know.

Q When to your best recollection, as the person in charge of this case, did you ask the FBI to locate Mr. Herbert Heller?

A I am trying to explain the operation -- of the FBI operation -- I don't know.

Q In the dim past I too have a knowledge of FBI requests. But can you tell me your best recollection as you sit on the witness stand now as to when you asked the FBI to contact Mr. Herbert Heller.

A Well --

MR. SCHWELB: If you know.

A (Continuing) I don't know. I don't think Mr. Heller was on the list that I prepared. I don't know which FBI list his name was included in. It may have been in June. It may have been in March. It may have been in August. It might have been in September. I have no idea.

Q Do you know a man names Mr. John Brofman?

A Yes.

MR. SCHWELB: Your Honor, this is outside the scope of the four witnesses that he talked about that

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2 we asked in the interrogatories about. I very
3 particularly wanted to know all the charges against
4 this young lady that he had. He said that is all he
5 had. I don't think he can go and meander around the
6 world, although if he does he does.

7 THE COURT: Well, now, is this something you
8 believe is antecedent to your motion?

9 MR. COHN: I will have to ask her. It is no
10 secret. I can state it in the form of a statement or
11 an offer of proof. What I have is on the basis of
12 phone calls made by people who were called either
13 by Miss Goldstein, or associates, or FBI agents, called
14 or visited --

15 THE COURT: I would say if they were called by
16 the FBI this wouldn't be helpful here. This witness
17 couldn't possibly tell. She is not vicariously
18 responsible for anything the FBI does in my judgment.

19 MR. COHN: Except for this, your HONOR, I would
20 suggest that the person -- that as your Honor well
21 knows better than any of us in this courtroom -- the
22 FBI is an investigative arm. It is not the Department
23 of Justice and it operates under programs given to it--

24 THE COURT: Well, it happens to be part of
25 the Department of Justice.

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MR. COHN: Of course.

THE COURT: Although for many years its director didn't recognize that.

MR. COHN: At various times, It's my part thank goodness, but your Honor, whatever it might be, the fact is we are going to raise the question here after your Honor hears the testimony from the witnesses as to whether there is any obligation on the part of the person in charge of the case to see that certain standards, particularly during the discovery period, and dealing with employees and former employees of the defendant, whether certain standards of ethicality and decency are not to be observed in the course of such an investigation.

MR. SCHWELB: We will stipulate that we asked the FBI to contact these people. If he wants to charge some FBI agent with contempt or whatever else he wants to charge them with, I suggest he name them and we will propound interrogatories and identify him and let the FBI agent be here and not put it on Miss Goldstein.

THE COURT: Well, I also assume again if these people were in the employe of your client -- I have the impression that they were former employees.

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THE WITNESS: Oh, yes.

MR. SCHWELB: We don't interview their managing agent without counsel present, your Honor.

THE COURT: So of course, as an old-timer like yourself, you are well aware that the Department of Justice judicially makes use of the FBI in investigation of civil cases. It is not all criminal investigation work, although the popular notion is the G-man as a crime buster. They are trained investigators and the only investigators that the Department has. And they do precisely such tasks as this.

MR. COHN: And the Urban League.

THE COURT: Well, it is the Attorney General's responsibility to bring cases when he feels or that he has information that should be brought forth and also under our statute they call on the FBI for aid in the necessary trial preparation. So, as I say, I do not think these FBI requests are helpful here.

Now, so far as this Don Brofman, do you know him?

THE WITNESS: Yes, I do. I interviewed Mr. Brofman a few weeks ago.

MR. SCHWELB: It was after the motion.

THE WITNESS: After the motion. I didn't

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2 MR. SCHWELB: Your Honor, I will reserve any
3 further examination until our case in chief.

4 THE COURT: All right, you may step down.

5 (Witness excused.)

6 MR. COHN: I call Miss Falcone.

7 C A R O L B A L I S T R E R I , called as a witness,
8 having been first duly sworn by the deputy clerk of
9 the court, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. COHN:

12 Q Miss Falcone, what is your full name?

13 A My name is Carol Balistreri. When I was with
14 Trump it was Carol Falcone.

15 Q Now, I think we know from some testimony in
16 the courtroom that your business is conducting a Hero shop.

17 A Yes.

18 Q Called the Hero Hut?

19 A Yes.

20 Q Where is that located?

21 A It is located at 253 Jericho Turnpike in
22 New Hyde Park.

23 Q Does it have a telephone?

24 A Yes, it does.

25 Q Is the phone listed with Information?

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A Yes, it is.

Q Is there any secret about it?

A No.

Q Now, did there come a time --

MR. COHN: I will withdraw that question.

Did you work for the Trumps at any time?

A Yes, I did. I worked for three and a half years.

Q What was the general nature of your duties?

A I was a clerk.

Q Now, did there come a time when you met a lawyer
named Donna Goldstein?

A Yes, I did.

Q You saw her here in Court this morning?

A Yes.

Q Before you met Donna Goldstein did it come to
your attention that somebody from somewhere wanted to see you?

A Yes.

Q What happened?

A They came to my home looking for me.

Q What time?

A About 9:00 o'clock. And I wasn't there.

Q Nine o'clock when?

A In the evening.

Q Who was that?

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2 MR. SCHWELB: Your Honor, is this based on
3 something somebody told her or her own knowledge? If
4 it is not her own knowledge I would object.

5 Q Was this something discussed between you and
6 Miss Goldstein when you met Miss Goldstein?

7 A Yes. When she came to my store I told her
8 there were FBI agents looking for me at my home. And I told
9 her I didn't know exactly whether there was two or one. I
10 said there was two or one. And someone came at 10:30 at
11 night. They said they were from the FBI, speaking to my
12 uncle.

13 MR. SCHWELB: Your Honor, is this based on
14 what her uncle told her or what she knows?

15 Q I am interested in what you told Miss Goldstein
16 when you first met her.

17 THE COURT: I will permit the witness to
18 testify what she told Miss Goldstein for a limited
19 purpose with respect to state of mind.

20 MR. SCHWELB: The testimony that she is telling
21 Miss Goldstein rather than what she told --

22 THE COURT: I am not accepting it as a part of
23 the truth thereof. Do you understand?

24 MR. SCHWELB: Yes sir.

25 THE COURT: All right, go ahead. Is it

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Mrs. Balistreri?

THE WITNESS: Yes.

Q In any event I think you just answered us that you told Miss Goldstein that FBI agents had been at your house and seen your uncle at 10:30 at night?

A Right.

Q On how many occasions?

A Twice.

Q Did you say anything to Miss Goldstein on how you could be located?

A I told her they should have just called my store.

Two gentlemen also went to my store and they spoke to my husband. My husband said that it just happened she is not here but she is here every day.

MR. SCHWELB: Is this something you related to Miss Goldstein or is that something that you related to the outside world?

THE WITNESS: He said to Miss Goldstein.

Q You said to Miss Goldstein?

A I told her how many people had been looking for me.

THE COURT: Well, did you understand that an FBI man came to your store? Is that what you are saying?

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2 THE WITNESS: No, two gentlemen. My husband
3 didn't tell me who they were. He said two gentlemen
4 came looking for you.

5 THE COURT: You told this to Miss Goldstein?

6 THE WITNESS: Yes.

7 Q And I think you said that I am right here
8 practically every day?

9 A I told her, I said, I am here every day. They
10 keep saying they are looking for me; they are looking for me.
11 I am here.

12 She said, "Well, that's why I came to speak to
13 you."

14 Q How long did she stay?

15 A She came about 20 after 11:00 and she left
16 about 5 or 10 to 2:00, somewhere around there.

17 The only reason I remember the time is it was
18 lunch hour in the Hero shop and that is our busy time.

19 Q Was she there more than a half-hour?

20 A Definitely it was more than half an hour.

21 Q Your recollection is it was around from a
22 little before 12:00 to around 2:00 o'clock?

23 A Yes, before 12:00.

24 Q Now, did she ask you any questions about your
25 duties with the Trump Organization?

1
2 A Yes, she did. She asked me what my duties
3 were there. How long I worked. Who my friends were.

4 Q All right, let me stop you there. When she
5 asked you about how long you worked for the Trump Organization
6 did she ask you to describe your duties?

7 A Yes, she asked me to describe my duties and I
8 said -- I described them for her.

9 Q Briefly what did you describe?

10 A I said I typed, I filed, I did clerical work.
11 She said in three and a half years that is all
12 you did?

13 I said that's all I did.

14 She said I worked in other offices and during
15 three and a half years I knew more than that.

16 I said well, I am sorry, I just didn't know more
17 than that. That is all I did there. That was about it.

18 Q Was the word perjury used at any point during
19 the interview?

20 A Yes. She said to me -- she said when I said
21 this to her -- she said remember , do you know what the charge
22 is for perjury.

23 So I said no, I didn't know.

24 She said you know, she said, it is one to five
25 years.

 I said oh, that's nice. You know, I didn't

1
2 know what she was trying to bring out. I said I am telling
3 you what I did there. And that was the end of it.

4 Q What you told her was the truth?

5 A That was the truth. That's what I did.

6 Q Now, you are quite clear about her talking
7 about perjury being one to five years?

8 A Yes.

9 Q Now, did she ask you any personal questions in
10 relation to your employment by Trump?

11 A Yes. She said to me how old are you.

12 I said I am 28.

13 She said do you own this place?

14 I said yes, I own this place.

15 She said a young girl like you?

16 Then I said to her, Miss Goldstein, I said, I
17 am 28, yes. I worked since I am 17 years old. I have saved
18 every penny that I made and that is how I own this place.
19 If you think in any way that I got the money from, you know,
20 Trump or anything, if that is what you are trying to say?

21 She said, no, I just wanted to know how a girl
22 could own a place like this.

23 Then she asked me about my friends, who my
24 friends were.

25 Q I want you to go into all the questions that

1
2 she asked you about different friends of yours. But I do
3 want to ask you did she ask you about any personal relation-
4 ship you had with Donald Trump?

5 A Yes. She said were you single when you worked
6 there?

7 I said yes, I wasn't married.

8 She said do you know Donald Trump?

9 I said yes, I worked for him.

10 She said did you ever go out with him?

11 I said no, I did not.

12 Did he ever ask you out?

13 I said no, he did not.

14 MR. COHN: Nothing further.

15 MR. SCHWELB: Can I have about a two-minute
16 recess?

17 THE COURT: Let's have a ten-minute recess.

18 MR. COHN: What's your pleasure about time
19 today, your Honor?

20 THE COURT: As far as there are witnesses to
21 go, except what I will do is I will probably have to
22 adjust the lunch hour because I have a matter on at
23 2:00 o'clock. That will probably take a half-hour.
24 It's a juvenile hearing.

25 MR. COHN: That would help me.

1
2 THE COURT: So we will work it out so that the
3 lunch hour will be stretched over.

4 (Short recess.)

5 (After recess.)

6 C A R O L B A L I S T R E R I , called as a witness,
7 having previously been duly sworn, resumed the stand
8 and testified further as follows:

9 CROSS-EXAMINATION

10 BY MR. SCHWELB:

11 Q Miss Falcone, just for the record, you appeared
12 at your deposition taken just a few weeks ago, did you not?

13 A Yes I did.

14 Q And you testified at the deposition?

15 A Yes.

16 Q Didn't you testify at the deposition that every
17 word of this affidavit was your own?

18 A Yes, I did.

19 Q And that nobody helped you write it at all?

20 A No.

21 Q And that you testified that it was in your
22 own handwriting and that nobody could -- in that case nobody
23 could say that you just signed it, is that right?

24 MR. COHN: Your Honor, if it is just preliminary
25 I don't mind. But if it is going to be on something

1
2 particular I would rather have him say were you asked
3 this question and did you give this answer.

4 MR. SCHWELB: It is very summary, your Honor.
5 Well, let me ask it differently.

6 MR. COHN: That is what I am worried about.

7 THE COURT: All right.

8 Q Let me ask it differently. Did you in fact
9 write it in your own handwriting so that nobody could say you
10 just signed it?

11 A Yes.

12 Q Now, was it also true that your best recollec-
13 tion of the interview with Miss Goldstein was at the time
14 that you wrote that statement rather than at the present time?

15 A Yes.

16 Q Now, you were given an opportunity to look at
17 your affidavit before the deposition, weren't you?

18 A Yes.

19 Q You testified that it was all true and no
20 errors, didn't you?

21 A Yes.

22 Q And now --

23 MR. COHN: Of course, your Honor, if he wants
24 to talk about the deposition I would prefer to have
25 him say were you asked this question and did you give

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this answer.

THE COURT: All right.

Q Now, in writing your affidavit, Miss Falcone, did you try to be fair?

A Yes.

Q You tried not to exaggerate?

A I didn't exaggerate. You know, I wrote down what she had said to me and what I said.

Q Now, I believe that you stated in your affidavit that "...I was interviewed by Miss Donna Goldstein, attorney for the Civil Rights Division of the Justice Department and by another attorney on the morning of July 19, 1974 at my place of business in connection with the civil rights suit against my former employer, Trump Management."

Now, were you interviewed on that occasion by Miss Goldstein and another attorney?

A No, just Miss Goldstein.

MR. SCHWELB: Thank you.

Q And now later on in your affidavit you said, "...that in fact made me feel I was a criminal being held on a criminal charge..." Was that only Miss Goldstein?

A Miss Goldstein was the only one that questioned me.

I meant when I said it that because they came

1
2 looking for me at such odd hours and that they, you know, as
3 they were all trying to reach me when I was right there at
4 my place. That is what I meant by it.

5 Q Is it your testimony that somebody other than
6 Miss Goldstein tried to make you feel like a criminal?

7 A No one treated me unfairly except I felt that
8 she did.

9 Q The others all were nice to you, were they?

10 A Very nice.

11 Q And they treated you fairly?

12 A Polite and fairly.

13 Q I think you testified today that Miss Goldstein
14 came at about a little before 12:00 o'clock and left at about
15 2:00?

16 A Yes.

17 Q In your affidavit you testified that she was
18 there three and a half hours.

19 A Approximately three, three and a half hours.

20 Q Well, in your affidavit it says, "...which
21 lasted approximately three and a half hours." That isn't
22 right, is it?

23 A Yes, it is right. It is approximately three
24 hours and maybe ten minutes, or three hours and seven minutes.

25 Q Three hours and ten minutes?

1
2 A About that. From about a quarter after 11:00
3 until about a quarter after 2:00 or ten to 2:00. Around that
4 time.

5 Q Now, in your affidavit you stated that "...she
6 accused me of dating Donald Trump in front of my husband..."

7 Actually did she ask you, according to you,
8 whether you dated Donald Trump, is that right?

9 A Well, if someone said to you do you date
10 Donald Trump I guess that is accused.

11 Q You guess that is accused. And is that what
12 you mean?

13 A I assume that is what she meant.

14 Q That is your assumption.

15 A It is my assumption.

16 MR. SCHWELB: Thank you.

17 Q Now, Miss Goldstein asked you a number of
18 questions, did she not, about the racial composition of
19 different buildings?

20 A Yes.

21 Q She asked you how many blacks and how many
22 whites there were in each of them?

23 A She said what do you think the denominations
24 were. How many do you think were black and how many do you
25 think were white. And I said I didn't know.

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Q And you inferred from those questions, did you not, that she was accusing you or Trump of discrimination?

A Well, if you had asked me a question like that I would assume that you meant that did we have as many blacks as whites. And I said I didn't know how many of which, you know, were in the building.

(Continued next page.)

GR fls

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2amrl

1 Balistreri - cross - Schwelb

2 CROSS-EXAMINATION

3 BY MR. SCHWELB (Cont'd):

4 Q And you took from that that she -- she was ac-
5 cusing you of lying about that?

6 MR. COHN: What?

7 THE WITNESS: Excuse me?

8 MR. COHN: I don't understand. You took from
9 that she was accusing you of lying?

10 MR. SCHWELB: About the racial composition of
11 the building.

12 Q Did she ask you a lot of questions about it?

13 THE COURT: Do you understand the question?

14 THE WITNESS: Excuse me. Do you want to know
15 what she said about how many blacks and how many whites?

16 MR. SCHWELB: I'll withdraw the question.

17 It was poorly phrased.

18 Q Now, at the conclusion of your discussion with
19 Miss Goldstein -- strike that, please.

20 At the beginning of your discussion, you had
21 a very friendly conversation, didn't you?

22 A Yes. I was polite to her.

23 Q She was polite to you?

24 A Yes.

25

1 2 Balistreri - cross - Schwelb

2 Q And you offered her a cup of coffee?

3 A Yes.

4 Q And she had it?

5 A Yes.

6 Q And you discussed manicures, I think?

7 A She was discussing manicures. She was looking
8 at her nails and said, "I just had a manicure."

9 Q And you said you couldn't in your line of
10 business?

11 A Yes.

12 Q That was the tone of conversation?

13 A At the beginning.

14 Q When you left, you said, "Goodbye"?

15 A I said, "Goodbye."

16 Q And she said "Goodbye"?

17 A Yes. She was in my place and I wouldn't be
18 rude to her.

19 MR. SCHWELB: I have no further questions of
20 this witness, your Honor.

21 THE COURT: Any redirect?

22 MR. COHEN: May I have just a second?

23
24 (Continued on next page.)
25

1 3 Balistreri - redirect

2 REDIRECT EXAMINATION

3 BY MR. COHN:

4 Q Just one. Did Miss Goldstein say anything to
5 you on the subject of the Government having information
6 about what went on in the Trump organization from --

7 MR. SCHWELB: Objection, your Honor. Beyond
8 the scope of the direct.

9 MR. COHN: I think it probably is. I was
10 wondering if I could have your Honor's permission
11 to ask it as an omitted question. I suppose possibly
12 Mr. --

13 THE COURT: We will see. I'll give you an
14 opportunity for some recross.

15 MR. SCHWELB: All right.

16 THE COURT: Go ahead. I'll let you ask the
17 question.

18 BY MR. COHN:

19 Q Did Miss Goldstein say anything to you about
20 any information -- about how the Government knew what was
21 going on in the Trump organization?

22 A Yes. She said to me, she said, "You told me
23 that you answered the phone, did you?"

24 I said, "Yes, I answered the phone."

25 She said, "Did you notice when you answered the

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Balistreri - redirect

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2 phone if anyone that was on the phone was Negro?"

3 I said, "I really didn't know the difference
4 in the voices." I said, "Why?"

5 She said, "Because you know," she said, "There
6 are tapes," she said, "And we can prove that every
7 incident when a Negro would call, in the background
8 you would say, 'Shoo, shoo,' or 'Hang up on them.'"

9 I said, "I never did that. I never even heard
10 of it." And that's what she said about the tapes.

11 I said, "Are you saying that I did this on
12 the tapes?"

13 She said, "Well, you did answer the phone."

14 I said, "I didn't always answer the phones."

15 She said, "Do you know of anyone who did this?"

16 I said, "I do not know anything of this. What
17 you're trying to bring out to me?"

18 MR. COHN: I have nothing further.

19 MR. SCHWELB: I don't think any cross on that
20 particular allegation is necessary, your Honor.

21 MR. COHN: Well, you --

22 THE COURT: You may step down.

23 MR. COHN: All right.

24 (Witness excused.)

25 MR. COHN: Mr. Miranda, with your Honor's

1 5 Miranda- direct

2 permission.

3 T H O M A S M I R A N D A , called as a witness,
4 having been first duly sworn by the Clerk of the Court,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. COHN:

8 Q Mr. Miranda, do you know Donna Goldstein?

9 A Yes.

10 Q You saw her here in Court this morning?

11 A Yes.

12 Q did there come a time when she came to your
13 home?

14 A Yes.

15 Q July of 1974?

16 A That's right.

17 Q About how long was she there?

18 A About one hour and a half, two hours.

19 Q And when she came in, did you have any discus-
20 sion with her about on the subject matter of whether you
21 wanted to talk to her or not?

22 A Never. She didn't mention that to me.

23 Q Did you tell her you did not want to be involved
24 in this?

25 A I told her I don't want to be involved in this.

1 6 Miranda - direct

2 Q Did she tell you at any time that you did not
3 have to answer her questions?

4 A Never.

5 Q Now, did she ask you questions about discrimina-
6 tion in any of the Trump buildings?

7 A She asked questions of discrimination, yes.

8 Q And did she say anything to you about whether
9 or not she was satisfied with your answers?

10 A In the beginning she was not satisfied with
11 my answer, that's right.

12 Q What did she say to you?

13 A Well, she told me that -- she threatened me
14 with the question of higher authority or jail or whatever it
15 is.

16 MR. SCHWELB: I don't understand the witness,
17 your Honor.

18 MR. COHN: May the answer be read, your Honor?

19 MR. SCHWELB: Can he go more slowly?

20 THE COURT: Let's hear it. Read it back.

21 (Question read.)

22 BY MR. COHN:

23 Q That was in connection with which answers,
24 Mr. Miranda?

25 A In connection with the question I refused to

1 7 Miranda - direct

2 be cooperative in relation with this case. I don't want to
3 be involved.

4 Q Did she press you to say that there had been
5 discrimination at the Trump buildings?

6 A Well, precisely that -- discrimination Trump
7 building, yes.

8 Q What did you tell her?

9 A No.

10 Q After you had told her there was not, did she
11 keep pushing you on it?

12 A Yes.

13 Q About what point of the interview was the term
14 "jail" used by her?

15 A Well, put it this way. Maybe in the beginning
16 of the conversation that we have.

17 Q By the way, you yourself are Puerto Rican; is
18 that correct?

19 A I am Puerto Rican.

20 Q How long did you work for the Trumps?

21 A Two years.

22 MR. COHN: I have nothing further, your Honor.

23 CROSS-EXAMINATION

24 BY MR. SCHWELB:

25 Q Mr. Miranda, you filed an affidavit in this

1 8 Miranda - cross

2 case earlier, did you not?

3 A If I file an affidavit in this case?

4 Q Yes.

5 A To whom?

6 Q You signed a paper which is an affidavit?

7 A I signed a paper when?

8 Q And that affidavit was written in legal terms,
9 wasn't it?

10 A Yes.

11 Q You don't understand the legal terms very well;
12 is that right?

13 A That's right.

14 Q You were given a chance to make changes but you
15 didn't know how to make changes on a document in legal terms;
16 is that right?

17 A I don't think so. I don't think that they even
18 mentioned that to me. I saw the affidavit was in good terms
19 and good -- looked all right and I signed it.

20 Q You didn't write it, did you?

21 A No.

22 Q Who write it?

23 A Somebody in the office.

24 Q What office was that?

25 A Trump office.

1 9 Miranda - cross

2 Q Thank you.

3 Now, when did you first meet Mr. Cohn?

4 A Mr. Cohn?

5 Q This gentleman here, Mr. Roy Cohn.

6 A Mr. Roy Cohn? I met him over here when I
7 came first for a hearing in the lobby.

8 Q For the deposition; is that right?

9 A Deposition. Whatever you call.

10 Q So you had not met him when you signed your
11 affidavit, had you?

12 A No.

13 Q Now, did you know that as a result of your af-
14 fidavit, Miss Goldstein could get in ver serious trouble?

15 MR. COHN: Your Honor, I object to that.

16 Did he know with respect to his affidavit
17 Miss Goldstein could get into serious trouble?

18 I don't think that's a proper question.

19 THE COURT: I think that objection is well taken.

20 MR. SCHWELB: If I understand the ground for
21 the objection, your Honor, I could.--

22 THE COURT: You might inquire whether anyone
23 explained to him why the affidavit was being asked --
24 sought, etc.

25 Q Did anybody explain to you why the affidavit

10 Miranda - cross

1 was being taken?

2 A If anybody -- well, is quite difficult to answer
3 that question.
4

5 Q Did anybody explain it to you?

6 A The result of the -- the affidavit?

7 Q Did anybody explain to you --

8 A No.

9 Q -- what would be done with the affidavit?

10 A No.

11 Q Now, I think this -- did you go to Mr. Trump's
12 office after Miss Goldstein came to see you?

13 A I don't remember if it was the same day or the
14 following day.

15 Q Sometime after?

16 A Yes.

17 Q You told Mr. Trump, didn't you, you -- that
18 Miss Goldstein had interviewed you about this case and it was
19 his case and not your case?

20 A I --

21 Q You didn't want to be involved in his lousy case?

22 A That's true.

23 Q Now, he's a very busy man, is he not?

24 A Mr. Trump, yes.

25 Q So he spent only about five or ten minutes with

1 ll Miranda - cross

2 you; is that right?

3 A 15 or 20 minutes, more or less.

4 Q Didn't you testify that it was five or 10 minutes?

5 A Five, 10 minutes. I don't follow the time.

6 Q A short time?

7 A A short time.

8 Q Now, do you think your affidavit is a fair
9 summary of everything that happened between you and
10 Miss Goldstein?

11 A In this particular case I was looking for protec-
12 tion.

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14 (Continued on next page.)
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Miranda -- Cross/Schwelb

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CROSS-EXAMINATION

BY MR. SCHWELB: (Cont.)

Q What kind of protection?

A You see, I'm a minority. I have been harassed many, many, many times in this city. And I need protection when they mention the question of -- in other words, higher authority or somebody else, I was a little scared.

Q Let me just ask you whether you put in your affidavit -- you gave a fair picture of everything that happened at your house that day?

A If I put a fair picture of everything that happened in my house?

Q Right.

Between you and Miss Goldstein.

A It's very difficult. In the first place because I didn't have it for me to -- right at the moment, the second, because it happens a long time ago.

Q All right.

Mr. Miranda, isn't it true that Miss Goldstein called you --

THECOURT: Hold it just a minute. I know the purpose of this was to give him an opportunity to read it.

MR. SCHWELB: I'm sorry, your Honor. I was

1
2 Miranda - cross/Schwelb

3 going to take it step by step but I'll withdraw it.

4 THE COURT: Yes.

5 THE WITNESS: This is all right.

6 Q Now, Miss Goldstein first contacted you by
7 telephone, did she not?

8 A That is right.

9 Q And she was very polite when she set up the
10 meeting with you, was she not?

11 A She was very polite.

12 Q And when she was at your house she wasn't rude,
13 was she?

14 A Well, I was not cooperative, she was a little
15 rude.

16 Q Now, Mr. Miranda, --

17 A She was all right.

18 Q You say --

19 A You see, she has her own purpose to be there to
20 get some information in relation with discrimination in
21 Trump buildings.

22 Q Right.

23 A Right? So in the position that she is, I don't
24 mind, in other words, that she has to do her job properly.
25 But that doesn't mean that she has to use words of higher
authority or something like that.

1 3 Miranda - cross/Schwelb

2 Q The words were higher authority?

3 A Yes. Somebody higher in the Department of
4 Justice.

5 Q Let me just ask you first, isn't it true that
6 you testified and isn't it true that you think she is a nice
7 girl?

8 A A nice girl.

9 Q She wasn't rude to you in her words?

10 A A nice girl. Doing her job.

11 Q Her job was to interview you about the Trump --

12 A Yes.

13 Q The agency?

14 A Yes.

15 Q At the end of her doing her job, she asked
16 you -- you had coffee and donuts with her, did you not?

17 A Yes, if I remember.

18 Q You had a very friendly discussion about Puerto
19 Rico and the problems of Puerto Ricans, didn't you?

20 A Yes.

21 Q And at the end of it you said good bye and she said
22 good bye and everything was very friendly?

23 A Of course.

24 Q As a matter of fact, you -- she is welcome
25 to come to your house again, isn't she?

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Miranda - cross/Schwelb

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A Anytime.

Q Thank you.

Now, it's true, isn't it, Mr. Miranda, that you told her that you didn't want to be involved in this case, that that's Mr. Trump's case?

A I don't want to be involved.

Q All right. She told you, did she not, that if necessary, you might have to be subpoenaed?

A She mentioned something about it.

Q All right.

Is that what you mean by the higher authority?

A No.

Q What do you mean by the higher authority?

A Higher authority means FBI, police. That's what I mean, higher authority.

Q She said that the FBI might interview you, is that what she said?

A She mentioned something like that.

Q Is that what you considered threatening?

A That's what I considered threatening.

Q Thank you.

Now, during the course of your -- of Miss Goldstein's presence at your house, did you have occasion to talk to your son?

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5 Miranda - cross/Schwelb

A I called my son.

Q Now, didn't you call your son for advice as to whether to give information to her?

A Yes.

Q ANd he advised you to give information to her, didn't he?

A No. In other words, she talked with my son. They have a short conversation.

Q You talked to him, too, didn't you?

A Yes, I did.

Q And wasn't the subject of your conversation with him whether you should give information?

A The subject of the conversation was in relation with that but when I took the phone after she finish, my son told me to make my own judgment. To do it or not.

Q All right.

Now, Mr. Miranda, would it be fair to say that the main problem about Miss Goldstein's visit to your house was she was trying to get you involved in the case and you didn't want to be involved in the case?

MR. COHN: Your Honor, I object to that.

MR. SCHWELB: Cross-examination, your Honor.

THE COURT: Yes, I think it is fair cross-

1 6 Miranda - cross/Schwelb

2 examination.

3 Do you understand the question?

4 THE WITNESS: Make the --

5 THE COURT: Read it back.

6 MR. SCHWELB: I'll rephrase it, your Honor.

7 Q You were annoyed because she was trying to get
8 you involved in the case and you didn't want to be involved
9 in the case; is that right?

10 A That is right.

11 Q Okay. Now, Mr. Miranda, do you know Ronald
12 Bunn and Agnes Bunn?

13 A No.

14 Q Weren't you talking to Mr. Bunn in this court-
15 room today?

16 A Oh.

17 Q A black gentleman in the courtroom today?

18 A Yes.

19 Q Do you know him?

20 A Yes.

21 Q For how long have you known him?

22 A For two years.

23 Q And a nice fellow?

24 A Very nice fellow.
25

7 Miranda - cross/Schwelb

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2 Q Truthful?

3 A Truthful.

4 Q Now, didn't you have a conversation with
5 Mr. Bunn or with Mrs. Bunn about having to return a deposit
6 of a black woman and tell him that you didn't want to have
7 to return that deposit, that Mr. Trump ought to return the
8 deposit?

9 A I don't recall that.

10 Q You don't recall it?

11 A No, I don't remember that. I never did it. I
12 don't recall. I don't remember doing and talking with this guy
13 in relation with that. I never did.

14 Q Now, is it that you don't recall or you didn't
15 do it?

16 A I don't do it.

17 Q So you do recall?

18 A I didn't recall.

19 MR. COHN: He recalls he --

20 A In other words, everything that is in particular
21 for the business of the --- of the company, I work. I never
22 discuss this matter with the tenants. I consider this something
23 that we discuss with the office or --

24 Q Well, do you have any -- idea of what incident
25 I'm talking about with respect to a black woman?

8

Miranda - cross/Schwelb

MR. COHN: Your Honor, that's objected to as beyond the scope of direct examination and beyond the scope of this hearing.

THE COURT: I think it is. It is getting, moreover, into the merits of the case than the merits of this particular --

MR. SCHWELB: Here is the problem: If I may be heard briefly on that? The problem is that Mr. Miranda's testimony --

THE COURT: The problem is very apparent.

MR. SCHWELB: Pardon?

THE COURT: The problem is very apparent.

MR. SCHWELB: All right. All right, your Honor.

BY MR. SCHWELB:

Q Now, did you have --- did you meet anybody else from the Department of Justice before you met Miss Goldstein?

A First, yeah -- was another girl. I don't remember her name, no.

Q Was it Elise Goldweber?

A I think this is the name.

Q Have you seen her in the courtroom today?

A Yes.

Q Is it the young lady wearing glasses in the third

Miranda - cross/Schwelb

1
2 in the right-hand side?

3 A Yes.

4 Q All right.

5 When she came to your house, was she polite to
6 you?

7 A Very polite.

8 Q And pleasant?

9 A Pleasant.

10 Q And she asked you questions, also, did she
11 not?

12 A Yes.

13 Q And there were similar questions to the ones
14 Miss Goldstein asked you?

15 A More or less.

16 Q And both of them asked you whether you had
17 any information about discrimination by Trump, didn't they?

18 A Yes.

19 Q And you had a long chat with her and were
20 friendly with her also?

21 A And isn't it a fact, MR. Miranda, that you
22 told Miss Goldweber that racial markings were placed on
23 pieces of paper attached to applications?

24 A No.

25

10 Miranda - cross/Schwelb

1
2 Q You didn't tell her that?

3 A No.

4 Q Did you tell that to Miss Goldstein?

5 A No.

6 Q Did you ever tell anybody or tell any of the
7 Justice Department people that -- about an incident of
8 possible discrimination with any black family?

9 A No.

10 Q Did you ever tell anybody that you had been
11 told that the management preferred Jews?

12 A No.

13 Q Did you tell them that they wanted to keep your
14 place white?

15 A No.

16 Q You didn't tell any of those people any of
17 those things?

18 A Any of those things.

19 Q Now, I think you testified that the affidavit
20 was written by somebody else?

21 A Yes.

22 Q And Miss Goldstein is welcome in your house
23 at any time?

24 A Yes.
25

11 Miranda - cross/Schwelb

MR. SCHWELB: Thank you. No further questions.

THE WITNESS: All right.

REDIRECT EXAMINATION

BY MR. COHN:

Q About what point of the interview was the word "jail" used by Miss Goldstein, do you remember?

A Quite difficult but I think -- I believe it was in the beginning of the conversation.

Q Sometime before you telephoned your son to ask what you should do?

A Before, before.

MR. COHN: I have nothing further, your Honor.

MR. SCHWELB: I have nothing further, your Honor.

THE COURT: All right.

You may step down, Mr. Miranda.

MR. COHN: May I have just a second, please, your Honor. Your Honor, that's all we have with the exception of the testimony of Cecilman who we could not get today.

I will not call Mr. Brovman in view of Miss -- subject to confirmation of Miss Goldstein's statement that that incident took place after the date of our motion. That's it. Then we will rest. Subject to

xxx

12

Miranda - cross/Schwelb

the --

MR. SCHWELB: Could I have about a three-minute conference with Mr. Cohn?

We may be able to resolve this and unclog the calendar.

THE COURT: Yes, certainly.

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2 MR. SCHWELB: Your Honor, I might say that no
3 excuse has been furnished by defendant for not produc-
ing his witnesses.

4 MR. COHN: I'll give a good excuse.

5 Mr. Schwelb has sent marshals around and I know
6 your Honor's patience gets a little tried with all of
7 this because it is not in the direct issue here.

8 Miss Falcone had the pleasure of three different
9 sets of marshals going around at hours up to 12:20 in
10 the morning, serving three subpoenas, two of them with
11 incorrect dates, one of them which she had to change
12 in longhand calling for her to be here on October 29th,
13 next week, instead of today, when I had told -- said,
14 and she had explained she was available on a phone call
15 to be over in this courtroom whenever her testimony
16 was desired.

17 MR. SCHWELB: This has something to do with the
18 Zisselman's?

19 MR. COHN: Yes. As far as the Zisselman's are
20 concerned, I tried to treat them with as much courtesy
21 as I could. When your Honor had a calendar problem, I
22 had a calendar problem, and the Court of Appeals, the
23 date had to be changed. I contacted the Zisselman's who
24 had switched around their programs and could not come
25 today.

1 I said to them, "If I subpoena you, could I get
2 you?" They said "Now that you have told us that, you
3 cannot get us with a subpoena. We just can't be there.
4 We can come on a few days' notice."

5 Mr. Schwelb has made a proposal I might be able
6 to agree to.

7 We have these affidavits of the Zisselman's.
8 He apparently suggesting that we take -- I thought the
9 first affidavits and stipulate that they would so testi-
10 fy. Now I think he's having second thoughts and only
11 wants one of the affidavits, and not the other.

12 MR. SCHWELB: Your Honor --

13 MR. COHN: If his offer is both, I accept it. In
14 order to expedite and conclude this hearing, I would
15 stipulate that if the Zisselman's were here, their tes-
16 timony would be in accordance with these affidavits.

17 MR. SCHWELB: Let me take a couple of minutes on
18 that, your Honor. I never offered him anything. I
19 suggested that might be a possibility, to save some time.
20 That's all.

21 Let me study it right now and we'll determine it.

22 THE COURT: All right.

23 MR. SCHWELB: Your Honor, I will stipulate as
24 to Mr. Cohn's proposal, that Mr. and Mrs. Zisselman
25 will testify in accordance with their affidavits. They

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weren't affidavits. They were signed statements.

MR. COHN: Should I have them marked now, your Honor? Or read them in or have them marked?

THE COURT: You can have them marked as your exhibits, if you wish.

MR. COHN: Thank you.

Paul and Paula Zisselman.

THE CLERK: That's Paul Zisselman marked defendant's Exhibit A in evidence.

(So marked.)

THE CLERK: The other one is Paula Zisselman marked Defendant's Exhibit B in evidence.

(So marked.)

MR. COHN: We rest, your Honor.

MR. SCHWELB: Your Honor, I move at this time to dismiss the contempt proceedings against Miss Goldstein and against the United States, the proceedings for an order against the United States, on the grounds that the defendant didn't make anything approaching the kind of proof required, if the Court considers the credible evidence heard.

THE COURT: All right. May I see that? They haven't been marked yet?

THE CLERK: Yes, your Honor.

THE COURT: Do you want to be heard, Mr. Cohn,

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I think it's -- it's an abuse of power on the part of the Government and I think it's violative of the rights of a defendant, first of all, when there is a case in progress, a case containing a serious charge, a charge which the defendant stoutly resists.

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When there has been an order of the Court which further expands the complaint and clarifies the issue by putting the defendants on notice, what they are to meet, when it's a priority case for trial and after those stages, when the Government -- when with the knowledge and I would submit the collaboration of the Government, the Urban League or any other agency, is permitted to and does send in a -- and furnish information to the Government periods outside the time in the complaint or the particulars filed an undercover tester around the Trump buildings, with a lot of attendant circumstances that is improper conduct on the part of a prosecutor.

I would ask your Honor's leave on that to submit a little law. IT won't take me very long because I've been through that issue in another forum on differing circumstances recently.

The second phase of the motion, your Honor, is this. As is apparent from the testimony before you, this did not come -- we probably haven't scratched the

11 1 who sends the boys out to do the job. I think that
2 supervision and control should certainly extend to
3 telling them to call witnesses within -- this is a
4 civil rights case and these former employees are not
5 being charged with murder 1 and I think that there is
6 certainly ground rules of courtesy and hours which not
7 telling them not to go around to homes at 10:00, 11:00,
8 12:00 at night, which -- I just think that the better
9 housekeeping job can be done by the --

10 MR. SCHWELB: Is he entitled to make references
11 in this closing argument to things completely outside
12 the record, that in my judgement are not true and have
13 nothing to do with his original motion and didn't happen
14 in relation to anything he complained about?

15 MR. COHN: Your Honor --

16 MR. SCHWELB: I object.

notes flw 17 (Continued on next page.)
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1 MR. COHN: What is not in the record?

2 MR. SCHWELB: About what these FBI agents
3 went in the middle of the night.

4 THE COURT: I would have to agree with Mr. Schwelb,
5 that outside of a request by his office -- section,
6 to the FBI to conduct such a request. I find no
7 evidence in the record that anything of the nature
8 of Gestapo tactics was permitted by the FBI in doing
9 the tasks assigned to them.

10 I consider that an extraordinary charge to
11 make about an agency which, in my view, has always
12 acted in respect even of criminal, with the utmost
13 politeness and respect for the rules and laws of
14 this country.

15 MR. COHN: Let me say this, Judge Neaher.

16 As far as the FBI is concerned, nobody has been
17 a better friend of the FBI than I have. I agree
18 with you completely. I have written that publicly,
19 magazines, books, newspaper articles, and I think
20 they consider me such.

21 But I will say this to your Honor. I think
22 it is way out of line, in a civil rights' case,
23 for agents to be at potential witnesses' homes.

24 THE COURT: Well, I will have to take judicial
25 notice of the fact that the Federal Bureau of

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2 Investigation is precisely that. It investigates
3 not only the ivolutions of the laws of the
4 United States but it acts as the investigating arm
5 of the Department of Justice in purely civil matters.
6 And this is the first time it has ever been brought
7 to my attention that anyone has charged an FBI agent
8 or agents in a civil matter with some kind of conduct
9 that could be described as storm trooper or Gestapo-
type conduct.

10 MR. COHN: Your Honor.

11 THE COURT: I have found no evidence in the
12 record to sustain such a charge and I think the
13 charge is utterly without foundation.

14 MR. COHN: Your Honor, we're going from A to
15 B here. The charge in this contempt proceeding is
16 not against the FBI.

17 THE COURT: I understand.

18 MR. COHN: I have never brought a charge
19 against the FBI in my life. I have personal reasons
20 why I haven't and I never would. My relationship
21 is much too close.

22 THE COURT: There is no evidence in this record.

23 MR. COHN: Fine.

24 THE COURT: Other than the making of a request
25 in regular course to the FBI, giving names of persons

1 3 the department wishes to have interviewed in connec-
2 tion with a particular matter.

3 MR. COHN: Okay.

4 THE COURT: The FBI is supposed to be well
5 trained, professional, and the assumption or presump-
6 tion would be that based upon their own schedule of
7 assignments and work to be done, they went out,
8 perhaps late in the evening, because their agents
9 are oftentimes required to work late in the evening
10 in order to get matters performed, oftentimes because
11 people aren't even approachable during the daytime
12 hours. No one at home and so forth. However,
13 whatever the time, as I say, there is nothing here
14 that in my judgment would warrant any contempt or
15 other action by this Court on the basis of the proof
16 shown here.

17 It is perfectly obvious that some former
18 employees were approached, were interviewed or
19 attempted to be interviewed. Presumably for one rea-
20 son or another, they did not turn out to be willing
21 witnesses, which is understandable in some certain situa-
22 tions such as one of this kind. But I hardly find it
23 a basis for criticizing the actions of the plaintiff's
24 attorneys.

25 I feel that nothing here would amount to any

1 4 reason why this Court should condemn them or punish
2 them or censure them for what was done here. And
3 that is my ruling in this matter, and I therefore
4 grant the Government's motion to strike this applica-
5 tion from the record.

6 MR. COHN: All right.

7 Your Honor, may I have two points?

8 THE COURT: In toto.

9 MR. COHN: May I have two points on that?

10 I'd like it -- I'd like the point clarified concerning
11 the FBI. That that allegation was not made.

12 THE COURT: Mr. Cohn, you and I don't have to
13 argue.

14 MR. COHN: Okay.

15 THE COURT: It is unnecessary, I assure you.

16 MR. COHN: Okay. Fine.

17 THE COURT: Now, what I am interested in is, the
18 progress of this case, I remember referring it to the
19 Magistrate for purposes of discovery specification.

20 Is this going along or --

21 MR. COHN: The Magistrate ruled that at that
22 time that all discovery would terminate by September 1,
23 1974.

24 He commented in making the ruling, he thought
25 there had been -- a priority case under the statute
and he thought there had probably been too much

1 5 discovery already.

2 There had been 13 depositions taken at that
3 time. He gave the Government -- we took no deposi-
4 tions. We engaged in no discovery.

5 He gave the Government a period of weeks to
6 schedule more and gave them some ground rules about
7 the facts of not calling a lot of ex-employees who
8 didn't -- couldn't understand the law behind the
9 defendants. He was more interested in what would be
10 admissible in a Courtroom and all of that.

11 After having set the ground rules, the Govern-
12 ment then noticed another bunch of depositions, I
13 think six or seven or eight, something in that number.
14 All of those except one witness who was excused by
15 the Government, sick or something, were produced by
16 us, exactly as noticed by the Government, and we
17 now have some, I believe, 20 depositions, all of
18 which have been completed and the -- and were completed
19 prior to the cut-off date of September 1st.

20 In addition thereto, Judge Catoggio ordered
21 certain records to be turned over. We had turned some
22 over once before and we turned them over again, plus
23 additional records and all of that was completed by
24 September 1, 1974.

25 The only item that could conceivably be regarded

1 11 New York or elsewhere?

2 MR. SCHWELB: Almost all of the New York,
3 I think.

4 MISS GOLDSTEIN: Yes.

5 MR. COHN: I'm going to ask your Honor for
6 two rulings here. I heard what your Honor said
7 about the contempt motion. I might respectfully dis-
8 agree, which I guess is my prerogative and I know
9 your Honor has the ball when it comes to making a
10 decision.

11 Be it a civil case, and let's assume a civil
12 case is even more than a criminal case, I have never
13 seen anything like this in a discovery period. I
14 don't think I should be met with phone calls every
15 day about undercover agents going around to the
16 buildings while I'm trying to get this case ready.

17 MR. SCHWELB: I object to that for the eighteenth
18 time, your Honor.

19 MR. COHN: Your Honor, they didn't -- they
20 didn't prepare this case before they filed the complaint.
21 They're doing it now and I'm paying for it.

22 What I'm interested in is responding to your
23 Honor's inquiry. Are we going to trial November 25th?
24 How much longer are we going to get hit by them with
25 new areas, new things, not mentioned in the complaint

1 12 and not mentioned in the interrogatories, based upon
2 which we have or have not taken our discovery, based
3 upon which 20 depositions and carloads of records
4 have been turned over?

5 When is there going to be -- when Judge Catoggio
6 ruled that the end came, September 1, 1974, I do not
7 understand why in October, 1974, this -- your Honor
8 having set a trial date, it is a statute requirement
9 in a priority case, why we're still talking about
10 these things.

11 MR. SCHWELB: Can I answer why we are, your
12 Honor?

13 THE COURT: All right.

14 MR. SCHWELB: I think your Honor will recall
15 that we had considerable difficulty in discovery.
16 Discovery was to be over by September the 1st. That
17 was a ruling that Mr. Catoggio -- Magistrate Catoggio
18 made.

19 Part of that discovery was to look at their
20 records which got us the names of their former
21 employees. We asked for them late in -- the fall of
22 1973. We never got them.

23 Now, finally, we've gotten them. For that
24 reason I think that your Honor would agree with us
25 that it is our responsibility to interview them, to

1 13 determine what facts they have. And we've inter-
2 viewed them.

3 As soon as we get information we supplement
4 our answers to interrogatories. It is our responsi-
5 bility to do it.

6 Mr. Cohn is talking about this case being in
7 a hurry, and we're delaying it, is something
8 that boggles the mind.

9 If you recall the fate of the interrogatories,
10 the fact that they didn't answer them, they didn't
11 object to them. Then after they did answer them,
12 they answered them about a page and a half.

13 I come -- I've come up here any number of time
14 to be met with a proposition that depositions can't
15 be held. Mr. Cohn is in Cohn against Cohn, Jones
16 against Jones, or whatever it is he's in. He's the
17 only attorney who can represent them.

18 With due respect, we want to move as quickly
19 as possible and we've asked to move as quickly as
20 possible, but we do discovery and get names, we have
21 a right to interview them and use them so the Court
22 can have the entire truth. And that's what we're
23 trying to do.

24 With the new information, I believe that we
25 have an excellent case when we started with admission

1 14 of discriminatory policy, with incidents about
2 seven or eight definite buildings and with statements
3 by their agents how they don't want to rent to blacks,
4 we had some former employee proof.

5 Now, as a result of discovery which often
6 happens, we've got a great deal more. We want to give
7 it to your Honor.

8 THE COURT: I understand that you want to
9 prepare your case thoroughly but I think Mr. Cohn
10 has a point about there having to be some cut-off
11 date, when he can feel confident that the matter has
12 come to an end. as far as trial preparation is con-
13 cerned. You understand?

14 MR. SCHWELB: Yes, your Honor. I think he's
15 entitled to that.

16 THE COURT: It's very unsettling to believe that
17 you're dealing with a case that is shaped like this,
18 only to find that it is now grown to something like
19 this (indicating).

20 MR. SCHWELB: You see --

21 THE COURT: At the last minute.

22 MR. SCHWELB: Your Honor, with respect, that
23 date, as to when the cut-off must come, must bear
24 some relation to when we were given our rights of
25 discovery.

1 15 We've moved with considerable dispatch in
2 looking at his records.

3 THE COURT: The whole purpose of referring it
4 to the Magistrate, though, was to make sure that all
5 these matters could be ironed out and I had the
6 impression from what you said a little while ago
7 that these had been.

8 Did I misunderstand?

9 MR. SCHWELB: I think -- I didn't realize we
10 were in conflict except I advised your Honor, because
11 I think I have a responsibility, too.

12 We have additional interviews and we want to
13 amend our answers to interrogatories.

14 THE COURT: They are not deposition matters?

15 MR. SCHWELB: We don't want to take their
16 depositions. In other words, we've interviewed a
17 number of people. A number of those people have
18 additional evidence to what we had before.

19 We want to -- we have not yet disclosed that
20 to Mr. Cohn because we only just recently got it and
21 the reason we just got it is because we had an
22 investigation by the FBI based on the records he gave
23 us, I think, in August. I may be wrong.

24 THE COURT: August of '74?

25 MR. SCHWELB: Yes. And I may be wrong about

1 16 the date. I'm not positive. But in any event, it
2 takes a certain amount of time for them to interview
3 these people and we're move -- I give your Honor
4 my word that we're moving with the utmost dispatch
5 on it.

6 MR. COHN: Maybe I could clarify this.

7 Our position simply is going to be this.
8 We're trying this case based on the allegations of
9 the complaint, as clarified by the answers to the
10 interrogatories filed in answer to your Honor's
11 direction.

12 I am going to object just as strenuously
13 as Mr. Schwelb did when I tried to get over and your
14 Honor upheld him over July 26th on this contempt
15 motion this morning, to anything that comes after the
16 dates charged in the complaint in this case.

17 In other words, the complaint in this case
18 does not charge what Miss Busch from the Urban League
19 says someone indicated to her about a current situation
20 in July, 1974.

21 The complaint in this case charges up to
22 October, 1973, and that's what I am prepared to meet,
23 based upon the specifics, all of which relate to
24 events prior to the date of the filing of the complaint.
25 So I am going to object at the trial to the admission

1 17 of anything that goes beyond the charge made in this
2 complaint which is all we are called upon --what we
3 are called upon to meet in this case.

4 I think what Mr. Schwelb is saying to your
5 Honor is this. He wants to file supplemental interro-
6 gatories.

7 MR. SCHWELB: Answers to interrogatories.

8 MR. COHN: Answers to interrogatories, to
9 expand what he says he now has. So that when the day
10 of the trial comes, he will try to offer those in
11 evidence.

12 I don't care if he does that, if he wants to
13 serve me with any supplemental anything, without
14 delaying the trial and without taking more depositions.
15 God bless him, let him do it.

16 THE COURT: Are more depositions contemplated?

17 MR. SCHWELB: Not by us.

18 MR. COHN: No objection to that at all.

19 At the trial I will reserve my right to object
20 to the offering of any proof.

21 THE COURT: I would suggest in that case
22 that both of you pay some attention to inform the Court
23 on legal authority with respect to that.

24 MR. SCHWELB: We will do that.

25 THE COURT: Ordinarily I would view this as

1 18 any equity type action, where the complaint would
2 speak as of the time and injunction was to be granted,
3 if one were to be. That's not a pre-judgement.
4 I am simply saying that --

5 MR. COHN: Of course not.

6 THE COURT: It isn't like the normal situation
7 where you're dealing with the legal rights and re-
8 lations growing out of something that occurred in
9 the past, a breach of contract or that sort of thing.

10 This is a -- well, I suppose it's in a certain
11 sense civil enforcement of a statute type litigation,
12 where the claim is pattern of discrimination, and I
13 suppose to the extent that the Government proves it,
14 whether it be by evidence which was developed after
15 the complaint was filed or evidence which they had in
16 their possession before it was filed, they're talking
17 about, of course, a past pattern of discrimination.

18 But what they consider an existing pattern
19 of discrimination which is why they're asking or will
20 ask I'm sure for a form of injunctive relief.

21 So I suggest therefore that you have that in
22 mind if your going to make a point of it at the trial
23 so that I'll have the benefit of your --

24 MR. COHN: Thank you. I would have very much
25 in mind the fact that there is nothing about a civil

1 19 rights case that a -- raises it to some kind of
2 position over ordinary litigation and litigants to the
3 point that -- that I have to meet evidence up until
4 a date months after the filing of a complaint and
5 evidence of which I have not been advised and given
6 the opportunity to meet.

7 I think -- and I understand your Honor wants
8 law on that. I hope we will be able to furnish it.
9 Maybe I'm wrong. I find out every day I'm wrong on
10 things.

11 THE COURT: As I said, I prefer not to delay
12 the trial of this case. If we have to suspend the trial
13 to give you an opportunity to interview some of these
14 people, we may have to do that. I don't know.

15 MR. COHN: Could I ask your Honor -- through
16 your Honor's good offices now, when does Mr. Schwelb
17 intend to give me his -- the final statement he talked
18 about?

19 MR. SCHWELB: We certainly -- your Honor,
20 we'll certainly give them a substantial one this coming
21 week. I'd like to consult with my operating counsel
22 here as to whether the thing is over.

23 I believe that the FBI investigation is either
24 over or almost over. We have a substantial number
25 that we got in -- last four or five days, that we

1 20 want to amend.

2 We will give that to them next week. If there
3 is an --

4 THE COURT: Answers to interrogatories?

5 MR. SCHWELB: Yes. We find -- to supplement
6 the answers as the case goes along.

7 With respect to the question of the legal
8 question posed, of course, there are many cases that
9 hold that equity looks to the future and that's the
10 essence of that.

11 Just to respond to one --

12 MR. COHN: I am not prepared to argue it now.

13 MR. SCHWELB: Just to respond to one point
14 that Mr. Cohn made, Congress has said in *Trafficante*
15 against Metropolitan Life Insurance Company,
16 T-r-a-f-f-i-c-a-n-t-e against the Metropolitan Life
17 Insurance Company, 409 U. S. 205, at page 211, that
18 the right to equal housing opportunity has been ac-
19 corded the highest national priority.

20 Thank you, your Honor.

21 MR. COHN: Your Honor --

22 MR. SCHWELB: One other word about this and
23 that is, could we have our costs of this motion that
24 have just denied?

25 MR. COHN: Costs?

1 21 THE COURT: Well, I think I'll let it stand.

2 MR. COHN: The final word? I don't dispute
3 anything that --

4 THE COURT: The Government never has to pay
5 costs so I even things up by denying them costs
6 now and then.

7 MR. SCHWELB: I thought this particular motion
8 had a particular characteristic but I abide by your
9 Honor's ruling.

10 MR. COHN: Your Honor asked us for law. We
11 will furnish it to you.

12 In response to Mr. Schwelb's last statement,
13 I think a charge of violation of the civil rights
14 laws is seriously when the people against whom it
15 is made do not violate the civil rights law and
16 that's why it is interesting in this case that it is
17 the defendant who has been asking for the priority
18 trial date, not the Government.

19 We are ready to meet it and no matter what
20 Mr. Schwelb wants to file next week, we're not going
21 to ask for a minute's delay in this trial.

22 THE COURT: All right.

23 MR. SCHWELB: Thank you.

24 MR. COHN: Thank you. November 25th, that will
25 be this Courtroom?

THE COURT: November 25th is still the date.

* * * *

AVSA BRACHTL
730959

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT

NOV 14 1974

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
FRED C. TRUMP, et al.,)
)
Defendants.)

CIVIL ACTION NO. 73 CIV 1529

SUPPLEMENTAL ANSWERS TO
DEFENDANTS' INTERROGATORIES

The United States of America, plaintiff herein, by its undersigned attorney hereby supplements its Answers to Defendants' First Interrogatories.

Supplemental Answers to
Interrogatories 1 and 2

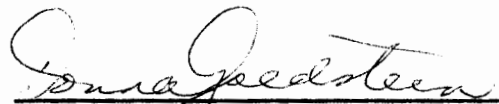
1. The following information constitutes evidence that defendants through their agents or employees have made apartments unavailable on account of race in the following ways:

(a) Mr. Kalman Biczko, 588 West End Avenue, New York, N. Y. a former employee of defendants, was superintendent at Laurence Gardens in 1971. Biczko states that at or about the time a black tenant was being evicted, the superindent at the Trump apartment building opposite Laurence Gardens, believed to be Laurence Towers, whose

name was Frank (last name unrecalled), advised him that he would be better off not renting to blacks, indicating that when you rent to blacks you run into trouble. A short time later, Biczko was relieved of rental responsibilities at Laurence Gardens and these responsibilities were assigned to Frank.

(b) Mr. and Mrs. Harold Zimmerman (current address unknown). Mr. and Mrs. Zimmerman who are caucasian are former tenants at Kendall Hall Apartments. The Zimmerman's moved from Kendall Hall early 1970. At or about the time they were planning to move from Kendall Hall, Mrs. Spitrey who was the wife of the Superintendent and who served as a rental agent, told the Zimmermans not to inform their neighbors, Mr. and Mrs. Walarsky, that they were moving, since the Walarsky's had black friends who were interested in renting at the apartment house.

Respectfully submitted,



FRANK E. SCHWELB
NORMAN P. GOLDBERG
DONNA F. GOLDSTEIN
Attorneys, Housing Section
Civil Rights Division
U.S. Department of Justice
Washington, D. C. 20530


AFFIDAVIT

CITY OF WASHINGTON)
) SS
DISTRICT OF COLUMBIA)

I, Donna Goldstein, being duly sworn, depose and say:

1. I am an attorney in the Housing Section, Civil Rights Division, United States Department of Justice, and one of the counsel for plaintiff in United States v. Fred C. Trump, et al., Civil Action No. 73 C 1529.

2. I am informed of the facts of this case. The foregoing Plaintiff's Supplementary Answers to Defendants' Interrogatories are true and correct to the best of my information, knowledge and belief.



DONNA GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Subscribed and sworn to before me
this 11th of November 1974.




NOTARY PUBLIC

My Commission expires:

CERTIFICATE OF SERVICE

I hereby certify that on November 11, 1974, copies of the foregoing Plaintiff's Supplementary Answers to Defendants' Interrogatories were placed in the United States mail, postage prepaid, addressed to counsel for the defendants:

Roy M. Cohn, Esquire
Saxe, Bacon, Bolan & Manley
39 E. 68th Street
New York, New York 10021



DONNA GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Saxe, Bacon, Bolan & Manley

39 EAST 68TH STREET
NEW YORK, NEW YORK 10021

JOHN GODFREY SAXE (1909-1953)
ROGERS H. BACON (1919-1962)

(212) 472-1400

THOMAS A. BOLAN
COUNSEL

ROY M. COHN
SCOTT E. MANLEY (ADMITTED ILLINOIS AND INDIANA)
MICHAEL ROSEN

DANIEL J. DRISCOLL

HAROLD SCHWARTZ
MELVYN RUBIN
JEFFREY A. SHUMAN
LORIN DUCKMAN

November 16, 1974

FILED
NOV 19 1974
U.S. DISTRICT COURT, N.Y.

NOV 19 1974

TIME A.M.....
P.M.....

73 C 1529

Hon. Edward R. Neaher
United States District Judge
United States Court House
Foley Square
New York, New York 10007

Dear Judge Neaher:

When we last appeared before Your Honor, it was brought to Your Honor's attention that the case now bore stamped resemblance to the original allegation contained in the complaint and to their specification by the Civil Rights Section's responses last January, 1974, amplifying the complaint by listing the specific locations and incidents already called upon to me at the trial. Extensive depositions of the people involved in the listed incidents and others in the Trump management were taken - all by the government, none by us, as we were anxious to expedite this trial. Discovery was terminated by Magistrate Cattagio on September 1, 1974, and we moved the case for trial by communicating with Your Honor's chambers.

However, thereafter, the government served a whole new set of amended or additional answers to the ten month old answers to interrogatories. From these it appeared that right during the taking of discovery, the government was going around trying to bolster its case by the use, among other techniques, of undercover tester agents of the Urban League, in an attempt to entrap (albeit substantially unsuccessful) certain employees of the defendants.

This new slew of answers to interrogatories and alleged incidents obviously produced an entirely new list of alleged incidents, some within a few weeks of the September set of new answers to interrogatories. Nevertheless, we persisted in our attempt to have this case disposed of promptly.

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Hon. Edward R. Neaher
November 16, 1974
Page Two

When we appeared before Your Honor in October, we were told, for the first time, that the government intended to file still another set of answers to the January, 1974 interrogatories, containing still additional incidents. We advised the Court that without a cut-off date it would be impossible to have the prompt trial to which we are all entitled, and to have substantial justice done with an opportunity on our part to meet allegations - which we thought governed the period to the date of the filing of the complaint - in a monitoring current spy network operating around our units.

It was then and there represented to Your Honor that a final set of new answers would be submitted the next week. They were not. Some time after the promised date there was submitted an entirely new list of answers containing previously uncharged and unspecified alleged incidents.

This letter was supposed to end here, but after I started preparing it, and on yesterday, November 15, 1974, we received still another new set of allegations and specifications.

In view of this amazing conduct on the part of the government, we now have no choice but to reluctantly request Your Honor to adjourn the trial date of November 25, 1974, which was fixed at our instance and opposed by the government, and to ask for the re-opening of discovery so that we may examine witnesses involved in incidents of which we have been notified since the date discovery was ordered concluded - September 1, 1974. We also request that Your Honor formally fix the November 15, 1974 additional allegations by the government as the final cut-off date prior to trial for the filing of such new allegations, so the period between now and whatever the trial date Your Honor sees fit to fix after November 25, 1974, may be used for the preparation of a case of which we have been notified, and can be prepared to meet.

If Your Honor feels a conference is required as a result of this letter, we are, of course, available at your convenience.

Respectfully,


Roy M. Cohn

sb
cc: Mr. Frank Schwelb

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
NOV 20 1974

UNITED STATES OF AMERICA,

Plaintiff,

-against-

FRED C. TRUMP, et al.,

Defendants.

PLAINTIFF'S SUPPLEMENTAL
ANSWERS TO DEFENDANTS'
INTERROGATORIES

Civil Action No.
73 C 1529

The United States of America, plaintiff herein, by its undersigned, submits the following supplementary answer to defendants' interrogatories.

1. On or about June 14, 1972, George Sim Johnston, 131 E. 69th Street, New York, N.Y., an employee of The Urban League, conferred with Mr. Louis Sarnell, a rental agent employed by the defendants at the Shorehaven complex. Sarnell informed Johnston that the neighborhood was safe, in part, because there were no blacks in the immediate area or words to that effect. Sarnell also indicated that "people who make trouble" implying blacks, were kept in a specific area in the community and that at Shorehaven, Johnston would be safe from those persons.

2. On or about July 31, 1972, Godfrey Jacobs, 2401 Nostrand Avenue, Brooklyn, N.Y., a black tester from the Urban League spoke to Mr. Abe Rosenberg, a rental agent of the defendants at the Beachaven complex to inquire about renting a one-bedroom apartment that was advertised in the New York Times on or about July 24, 1972. Jacobs was told that nothing was available. A few minutes later George Sim Johnston, white, inquired about renting a one-bedroom apartment and was shown the apartment and informed that he could rent it.

Dated: Brooklyn, N.Y.
November 20, 1974

Norman P. Goldberg

NORMAN P. GOLDBERG
Attorney
Department of Justice
Washington, D.C.

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V E R I F I C A T I O N

STATE OF NEW YORK)
) ss.:
COUNTY OF KINGS)

I, Norman P. Goldberg, being duly sworn, depose and say:

1. I am an attorney in the Housing Section, Civil Rights Division, United States Department of Justice, and one of the counsel for plaintiff in United States v. Fred C. Trump, et al., Civil Action No. 73 C 1529.

2. I am informed of the facts of this case. The foregoing Plaintiff's Supplementary Answers to Defendants' Interrogatories are true and correct to the best of my information, knowledge and belief.

Norman P. Goldberg

NORMAN P. GOLDBERG
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D.C. 20530

Sworn to before me this
20th day of November 1974

Evelyn Sommer

EVELYN SOMMER
Notary Public, State of New York
No. 24-4502158
Qualified in Kings County
Commission Expires March 30, 1975

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
CLERK'S OFFICE
U.S. DISTRICT COURT
DEC 3 1974

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
FRED C. TRUMP, et al.,)
)
Defendants.)
)
_____)

TIME A.M.
P.M.

CIVIL ACTION
NO. 73 CIV 1529

SUPPLEMENTAL ANSWER
TO DEFENDANTS'
INTERROGATORIES

The United States of America, plaintiff herein, by its undersigned attorney hereby submits the following supplemental answer to defendants' interrogatories. In addition, plaintiff submits a correction to an answer previously submitted.

Supplemental Answer

Mr. Saul Blate, 49 Nixon Court, Brooklyn, New York, is a white tenant currently residing in the defendants' Beachaven Complex. Sometime in late 1970, Mr. Blate went to the defendants' Beachaven rental office to inquire about moving to a larger apartment. While at the office, the rental agent, name unknown, observed through a window some black people walking near the office. The agent stated to Blate that "we" do not want to rent to blacks or words to that effect. The agent then proceeded to pull the window shade down indicating to Blate that he wanted to give the appearance that the office was closed.

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Corrected Answer

Reference is made to Item 1(i) contained in Plaintiff's Supplemental Answer served on November 4, 1974. The portion of the Answer referring to a discriminatory statement made by Carlos Zeller to Adolpho Gomez should be changed as follows:

According to Gomez, Zeller informed Gomez that Trump Management did not want to rent to blacks. Zeller further advised Gomez that when blacks inquired about renting apartments Zeller informed them that there were no vacancies in order to implement the defendants' discriminatory policy.

Respectfully submitted,

Norman P. Goldberg

NORMAN P. GOLDBERG
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

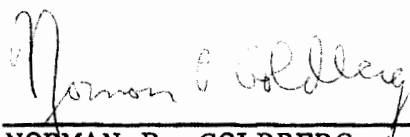
AFFIDAVIT

CITY OF WASHINGTON)
) ss
DISTRICT OF COLUMBIA)

I, Norman P. Goldberg, being duly sworn, depose and say:

1. I am an attorney in the Housing Section, Civil Rights Division, United States Department of Justice, and one of the counsel for plaintiff in United States v. Fred C. Trump, et al., Civil Action No. 73 C 1529.

2. I am informed of the facts of this case. The foregoing Plaintiff's Supplemental Answer to Defendants' Interrogatories is true and correct to the best of my information, knowledge and belief.



NORMAN P. GOLDBERG
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Subscribed and sworn to before me
this 26th of November, 1974.



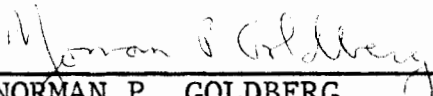
NOTARY PUBLIC

My Commission expires: January 31, 1977

CERTIFICATE OF SERVICE

I hereby certify that on November 26th, 1974, copies of the foregoing Plaintiff's Supplemental Answer to Defendants' Interrogatories were placed in the United States mail, postage, prepaid, addressed to counsel for the defendants:

Roy M. Cohn, Esquire
Saxe, Bacon, Bolan
& Manley
39 E. 68th Street
New York, New York 10021



NORMAN P. GOLDBERG
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

CIS:HAB:gp
F. 730959

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

75

----- X

UNITED STATES OF AMERICA,

Plaintiff,

Civil Action No. 73 C 1529

-against-

NOTICE TO TAKE DEPOSITION
UPON ORAL EXAMINATION

FRED C. TRUMP, et al.,

Defendants.

----- X

S I R S :

PLEASE TAKE NOTICE that at 10:00 A.M. on the 12th day of December, 1974 at the Office of the United States Attorney, 225 Cadman Plaza East, in the Borough of Brooklyn, City of New York, the plaintiff in the above-entitled action will take the deposition of Adolpho Gomez, as a witness, upon oral examination, pursuant to the Federal Rules of Civil Procedure, before a Notary Public, or before some other officer authorized by law to take depositions. The oral examination will continue from day to day until completed. You are invited to attend and cross-examine. A Spanish interpreter will be present.

Dated: Brooklyn, New York
December 4, 1974

Yours, etc.

DAVID G. TRAGER
United States Attorney
Eastern District of New York
Attorney for Plaintiff

By: *Henry A. Brachtel*
HENRY A. BRACHTL
Assistant U.S. Attorney
225 Cadman Plaza East
Brooklyn, New York 11201
(212) 596-3563

TO:

Saxe, Bacon, Bolan & Manley, Esqs.
39 East 68th Street
New York, N.Y. 10021

64

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT E.D. N.Y.
 DEC 19 1974

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 FRED C. TRUMP, et al.,)
)
 Defendants.)

CIVIL ACTION
 NO. 73 CIV 1529

SUPPLEMENTAL ANSWER
TO DEFENDANTS'
INTERROGATORIES

TIME A.M.
 P.M.

The United States of America, plaintiff herein, by its undersigned attorney hereby submits the following supplemental answer to defendants' interrogatories.

Supplemental Answer

On or about August 17, 1972, Mr. Godfrey Jacobs, a black male who is associated with the Open Housing Center, went to the Trump apartment complex located 3323 Nostrand Avenue, Brooklyn, to inquire about renting a studio or one-bedroom apartment, which had been advertised in the New York Times on that day. Mr. Jacobs was informed by the rental agent that neither was available for rent.

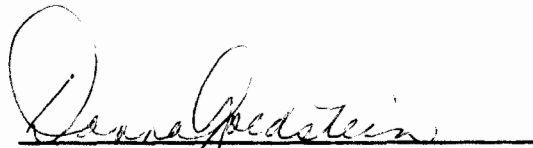
Mr. George Sim Johnston, III, a white male associated with the Open Housing Center, went into the rental office of

filed 12/19/74

65

3323 Nostrand Avenue, Brooklyn, a few minutes after Jacobs departed in order to inquire about renting a studio or one-bedroom apartment. Johnston was informed that the apartments were available for rent.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Donna Goldstein", is written over a horizontal line.

DONNA GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530


AFFIDAVIT

CITY OF WASHINGTON)
) ss
DISTRICT OF COLUMBIA)

I, Donna Goldstein, being duly sworn, depose and say:

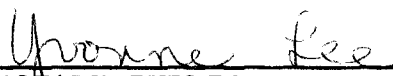
1. I am an attorney in the Housing Section, Civil Rights Division, United States Department of Justice, and one of the counsel for plaintiff in United States v. Fred C. Trump, et al., Civil Action No. 73 C 1529.

2. I am intormed of the facts of this case. The foregoing Plaintiff's Supplemental Answer to Defendants' Interrogatories is true and correct to the best of my information, knowledge and belief.



DONNA GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Subscribed and sworn to before me
this 17th day of December, 1974.



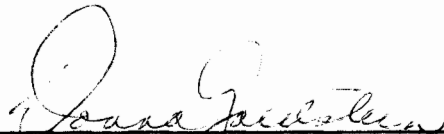
NOTARY PUBLIC

My Commission expires: ~~6y~~ Commission Expires June 14, 1977

CERTIFICATE OF SERVICE

I hereby certify that on December 17, 1974, copies of the foregoing Plaintiff's Supplemental Answer to Defendants' Interrogatories were placed in the United States mail, postage prepaid, addressed to counsel for the defendants:

Mr. Roy M. Cohn, Esq.
Saxe, Bacon, Bolan
& Manley
39 E. 68th Street
New York, New York 10021



DONNA GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Enclaves Indicated
and Refer to Enclaves and Number

JSP:FES:DG:sas
DJ 175-52-20

FEB 18 1975

The Honorable Edward R. Neaher
U.S. District Judge
Eastern District of New York
225 Cadman Plaza E.
Brooklyn, New York 10023

IN OFFICE OF
U.S. DISTRICT COURT

FEB 20 1975

Re: U.S. v. Fred C. Trump, et al.
Civil Action No. 73C1529

TIME A.M.....
P.M.....

Dear Judge Neaher:

I am writing to request an early conference with the Court so that a consent decree, which has been agreed upon in principle, can be entered as soon as possible.

As the Court is aware, the parties have agreed to a settlement of the above-styled action on the terms contained in the Memorandum of Understanding, executed on January 20, 1975 and submitted to the Court on January 21, 1975, and the proposed consent decree which is attached thereto, which may be modified only as described in the memorandum. The memorandum provides that the parties shall seek the assistance of the Court to resolve any disagreements as to meaning, and that all provisions not in dispute as to meaning shall be contained in their entirety in the final consent decree.

Because of the delays previously encountered in this action, including the postponement of two trial dates, and the requirement for expedition contained in 42 U.S.C. §3614, the



660

Memorandum of Understanding contains a timetable for final execution of the decree. Under the terms of the memorandum, if no final decree has been executed by February 14, 1975, "the parties shall then seek the assistance of the Court to resolve any dispute arising solely out of disagreement as to the meaning of any proposed change referred to in the Memorandum of Understanding."

Shortly after the execution of the Memorandum of Understanding, Plaintiff forwarded to defense counsel a proposed consent decree containing the provisions previously agreed upon. Several attempts to contact Mr. Cohn, both before and after the February 14 deadline, have gone unanswered, and, no decree has therefore been executed. Accordingly, we are writing to request that a meeting with the Court be scheduled in accordance with the provisions of the Memorandum of Understanding, so that the settlement can be made final and the consent decree promptly entered. Thank you for your consideration.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By: *Frank E. Schwelb*
FRANK E. SCHWELB
Chief
Housing Section



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated

and Refer to Initial and Number

JSP:FES:DG:sas
DJ 175-52-20

FEB 18 1975

The Honorable Edward R. Neaher
U.S. District Judge
Eastern District of New York
225 Cadman Plaza E.
Brooklyn, New York 10023

Re: U.S. v. Fred C. Trump, et al.
Civil Action No. 73C1529

Dear Judge Neaher:

I am writing to request an early conference with the Court so that a consent decree, which has been agreed upon in principle, can be entered as soon as possible.

As the Court is aware, the parties have agreed to a settlement of the above-styled action on the terms contained in the Memorandum of Understanding, executed on January 20, 1975 and submitted to the Court on January 21, 1975, and the proposed consent decree which is attached thereto, which may be modified only as described in the memorandum. The memorandum provides that the parties shall seek the assistance of the Court to resolve any disagreements as to meaning, and that all provisions not in dispute as to meaning shall be contained in their entirety in the final consent decree.

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Shortly after the execution of the Memorandum of Understanding, Plaintiff forwarded to defense counsel a proposed consent decree containing the provisions previously agreed upon. Several attempts to contact Mr. Cohn, both before and after the February 14 deadline, have gone unanswered, and, no decree has therefore been executed. Accordingly, we are writing to request that a meeting with the Court be scheduled in accordance with the provisions of the Memorandum of Understanding, so that the settlement can be made final and the consent decree promptly entered. Thank you for your consideration.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By: *Frank E. Schwelb*
FRANK E. SCHWELB
Chief
Housing Section

UNITED STATES DISTRICT COURT

LEWIS ORGEL
CLERK

OFFICE OF THE CLERK
EASTERN DISTRICT OF NEW YORK
U. S. COURT HOUSE
BROOKLYN, NEW YORK 11201

February 20, 1975

Roy M. Conn, Esq.
Saxe, Bacon, Bolan & Manley
39 East 68th Street
New York, N.Y. 10021

Re: USA -vs- Fred C. Trump et al.
73 C 1529

Dear Sir:

I enclose a copy of the memorandum and order of
Hon. EDWARD P. NEAHER, U.S.D.J. filed
herein on February 20, 1975 in the
above entitled matter.

Very truly yours,

Lewis Orgel
Clerk of Court

By: _____
Thomas B. Costello
Chief Deputy Clerk

Encl.

cc: Frank E. Schweib, Esq.
U.S. Attorney - E.D.N.Y.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA :

-against- :

73 C 1529

FRED C. TRUMP, DONALD TRUMP and :
TRUMP MANAGERMENTS, INC., :

Defendants. :

-----X

U. S. DISTRICT COURT
★ FEB 2 1975

MEMORANDUM ORDER

TIME 11
P.M.

Pursuant to a letter from plaintiff's counsel dated February 18, 1975, requesting the scheduling of a meeting with the court in accordance with the Memorandum of Understanding, dated January 20, 1975, and filed with the court in the above-captioned action, and good cause appearing therefor, it is

ORDERED that counsel for the parties appear in chambers, Room 252, at 10:00 a.m. on March 5, 1975, for the purposes as set forth in the Memorandum of Understanding.

Edward R. Nealey
U. S. D. J.

Dated: Brooklyn, New York
February 20, 1975



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

MAY 8 1975

Address Reply to the
Division Indicated
and Refer to Initials and Number

JSP:FES:dcr
DJ 175-52-11

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT



MAY 19



TIME AM.....
P.M.....

Honorable Edward R. Neaher
United States District Judge
Eastern District of New York
225 Cadman Plaza East
New York, New York 11201

Re: United States v. Fred C. Trump, et al.,
C.A. No. 73 C 1529

Dear Judge Neaher:

We are writing to you to respond to your law clerk's inquiry about the status of this case and to request the assistance of the Court once again to implement a settlement of the above-styled lawsuit, previously agreed to by the parties. Despite painstaking and time-consuming efforts by my colleagues and myself to complete the settlement through telephone conversations with Mr. Cohn and lengthy conferences with his clients, we have been unable to reach a final resolution of this matter.

As the Court is aware, on January 20, 1975, the parties executed a Memorandum of Understanding, attached hereto as Appendix A, incorporating a proposed Consent Order and specifically outlining the terms of a settlement. That Memorandum is on file with the Court. It was only because of the execution of this document, and the representation contained therein that the lawsuit had been settled, that the plaintiff agreed to the adjournment of the second trial date of January 27, 1975. In fact, in the Memorandum the parties agreed to the entry of the Consent Order on or before February 24, 1975. In addition, the Memorandum provides (starting on the bottom of page 3):



If no final consent has been executed by February 14, 1975, the parties shall so inform the Court. The parties shall then seek the assistance of the Court to resolve any disputes arising solely out of disagreement as to the meaning of any proposed change referred to in the Memorandum of Understanding. All other provisions in the attached Consent Decree and those not in dispute as to meaning in the Memorandum of Understanding shall be contained in their entirety in the final Consent Decree.

On February 4, 1975, a copy of a proposed Consent Order (attached hereto as Appendix B) based on the settlement outlined in the Memorandum of Understanding was forwarded to Mr. Roy Cohn, defendants' counsel. We were unable to contact Mr. Cohn to agree on the terms of a settlement, and we wrote to this Court on February 18, 1975, seeking a conference. The Court scheduled a conference for March 5, 1975, which was later cancelled by reason of the Court's illness.

Thereafter, Mr. Cohn forwarded to this office a proposed Consent Order which omitted many of the major provisions of the settlement terms agreed to in the January 20th Memorandum. (A copy of this proposal is attached hereto as Appendix C.) On March 14, we wrote Mr. Cohn a letter, a copy of which is attached as Appendix D, indicating that we believed the terms of the settlement had been fixed by the Memorandum of Understanding filed in this Court and that we therefore found the defendants' proposal completely unacceptable. On April 15, 1975, after we had again encountered substantial difficulties in finding anyone with whom to deal, defendant Fred C. Trump, and his colleague Mr. Irving Eskanazi came to Washington to meet with counsel for plaintiff, */ without their counsel but with his consent, to

*/ This meeting took place only after Mr. Cohn twice cancelled scheduled conference calls between him, defendant Donald Trump, and counsel for the United States which were supposed to resolve the controversy once and for all. Subsequently, Mr. Cohn advised counsel that defendant Donald Trump would come to Washington to negotiate, but his father and Mr. Eskanazi came instead.

discuss the terms of the final Consent Order. Despite our often stated position that we had negotiated in good faith the terms of a settlement which we considered binding on the parties by the signed Memorandum of Understanding, all three counsel for plaintiff spent half a day with Mr. Trump and Mr. Eskanazi, and Ms. Goldstein spent the remainder of the day with Mr. Eskanazi, working out what we understood to be a final settlement. It was the understanding of all concerned that Mr. Trump and Mr. Eskanazi were negotiating for all defendants. A meeting was arranged for April 23 to take place in New York for the purpose of executing the settlement and on April 19, 1975, a last proposed Consent Order which set forth the precise understanding between Ms. Goldstein and Mr. Eskanazi, was sent to Mr. Cohn. A copy of that document is attached hereto as Appendix E.

On April 22, Mr. Cohn informed us by telephone that he now wished to make new changes in the terms of the settlement. These proposed changes were represented to us as being "minor", and, despite some misgivings, a meeting was scheduled in New York for May 2, 1975 for the purpose of working out these minor changes and executing a final consent decree for presentation to this Court. On May 2, 1975 Ms. Goldstein met with Mr. Fred Trump and Mr. Irving Eskanazi at the law offices of defendants' counsel. Mr. Cohn was again not present. Defendants proposed several new changes, and several were conditionally agreed to by plaintiff even though they were inconsistent with the Memorandum of Understanding. Defendants also made new proposals, however, which in our judgment would have changed the character of the settlement and seriously impaired the effectiveness of the Decree, and to which we were unable to agree.

Specifically defendants now propose to delete provisions, previously agreed to, dealing with the inclusion of fair housing statements in advertising [see III A(3) p. 8 of Appendix B (the

Proposed Consent Order pursuant to the Memorandum of Understanding) and Section IV A(3) p. 8 of Appendix E (the Proposed Consent Order drafted pursuant to the April 15 meeting)], and with affirmative steps to ensure equal employment opportunity (see III C p. 11 of Appendix B */ and IV C p. 10 of Appendix E). In the Memorandum of Understanding agreed to on January 20, 1975, (Appendix A) and in the settlement negotiated with Mr. Trump and Mr. Eskinazi (Appendix E), the Injunction, including the affirmative provisions, applied to all of defendants' properties in New York City. **/ The reporting provisions (part V, p. 15 Appendix B, and part VI, p. 17, Appendix E) were to apply to fifteen properties. ***/ Defendants now propose, contrary to the explicit provisions of prior agreements, that the affirmative provisions of the Decree (see part III of Appendix B and part IV of Appendix E) apply only to those properties listed in the reporting provisions. This proposal is inconsistent with what has been previously settled and makes the decree far less effective in ensuring the full enjoyment of equal housing opportunity. While we have, at defendants' request, agreed to a number of changes in the January 20th Memorandum of Understanding, even though defense counsel had then represented it to be a final settlement, we cannot agree to the three most recent proposals. Defendants apparently take the position that without these new alterations, all three at odds with what they have previously signed, they will not execute a consent decree as they have previously committed themselves to doing.

*/ At the May 2 meeting, plaintiff conditionally agreed to delete III C(1) of the decree.

**/ See Brennan v. Fields, 488 F. 2d 443 (5th Cir. 1974) for the propriety of relief at complexes other than those at which the alleged discrimination occurred. In Fields, nationwide relief was granted, whereas here, we negotiated affirmative provisions applicable only to New York, and not affecting defendants' properties in New Jersey, Maryland and Virginia.

***/ Reduced to fourteen at subsequent meetings.

In light of the foregoing, we are now requesting the Court's assistance in accordance with the provisions of the Memorandum of Understanding quoted at the beginning of this letter. We believe that we have exhausted all reasonable avenues towards securing a final consent decree short of requesting the assistance of the Court. The United States agreed to a second postponement of the trial in this case, which is required by statute to be expedited, 42 U.S.C. §3614, solely on the representation that the terms of a Consent Order has been agreed to by the defendants. Now, nearly four months later, it appears that the defendants do not consider themselves to be bound by prior agreements, including the Memorandum of Understanding filed in this Court.

The January 20th agreement specifically states that all provisions not in dispute as to meaning "shall be contained in their entirety in the final Consent Decree." Accordingly, we respectfully request that the Court exercise the authority contemplated by the Memorandum of Understanding, and

- (1) resolve the three issues separating the parties by evaluating the present positions of the parties as against the Memorandum of Understanding; and
- (2) enter an Order pursuant to that Memorandum of Understanding, either by issuing a document in the form of Appendix "E" as the Court's Order, or by entering an Order based on the Memorandum of Understanding and the initial proposed Consent Order attached thereto (Appendices A and B).

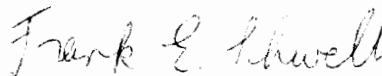
We are, of course, ready to meet with the Court and with defense counsel at the Court's convenience to resolve this matter, and we hope that this litigation can be completed without further delay. In view of the constant attempts by defendants to renegotiate what has already been settled, and in view of defense counsel's consistent unavailability, we do not think

that further negotiations without the assistance of the Court would be any more productive than the many dozens of attorney-hours already spent. Once a settlement in substance has been reached between counsel which provides for resolution by the Court of any difficulties in completing the settlement, then we believe that the parties are required to utilize the machinery for resolution by the Court of disputes as to the meaning of the Understanding, and are not free to disregard prior commitments.

In the event that the Court should think it inappropriate to require the defendants to comply with their prior agreements, then we must reluctantly request that the case be scheduled for trial at an early date. In this connection, the Memorandum of Understanding includes a list of witnesses for each side, and only four witnesses - the two Trumps, Althea Gibson, and one NAACP representative - are eligible to testify for defendants. Accordingly, substantially all of plaintiff's case will be uncontradicted. Since the case was, for all practical purposes, settled once, it would seem to be an unnecessary expenditure of time and resources to go to trial. Nevertheless, if the defendants are not to be bound to their prior bargains, we will be ready to proceed.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By: 
FRANK E. SCHWELB
Chief
Housing Section

cc: Mr. Roy M. Cohn
Mr. Henry Bracht1

M' FILMED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- -x

UNITED STATES OF AMERICA, :

Plaintiff, :

-against- :

FRED C. TRUMP, DONALD TRUMP and
TRUMP MANAGEMENT, INC., :

Defendants. :

----- -x

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D. N.Y.
★ MAY 19 1975 ★
TIME A.M.
P.M. 73 C 1529

M' FILMED

O R D E R

The court having received correspondence from counsel in the above-captioned case concerning the Memorandum of Understanding and Proposed Consent Order filed therein, and it appearing that a conference with the court concerning the progress of settlement of the action is necessary, such a conference is hereby scheduled for 3:00 p.m., Wednesday, June 4, 1975, in Courtroom No. 2.

SO ORDERED.

Edward A. Weather

U. S. D. J.

Dated: Brooklyn, New York
May 19, 1975

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En

IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y



JUN 4 1975

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 FRED C. TRUMP, et al.,)
)
 Defendants.)

CIVIL ACTION NO.
73 C 1529 TIME A.M.....
P.M.....

MEMORANDUM IN SUPPORT
OF PLAINTIFF'S REQUEST
TO ENFORCE A SETTLE-
MENT AGREEMENT

On January 20, 1975, counsel for the parties in this lawsuit executed a "Memorandum of Understanding" containing the provisions for settlement of the case. The Memorandum was intended as a settlement agreement and contains such language as: "Plaintiff agrees to a continuance solely on the basis of the representation that this case is settled in principle along the lines stated herein." (Emphasis added) Para. 1, p. 1. Because defendants' counsel, Mr. Roy Cohn, was about to leave the country for a matter of weeks, the Memorandum was signed, but the formality of executing a final Decree was postponed until mid-February, 1975. No final Decree has been executed, and plaintiff now seeks to have the settlement enforced.

It is well established that a settlement agreement entered into voluntarily "cannot be repudiated by either party and will be summarily enforced by the Court." Cummins Diesel

Michigan, Inc. v. The Falcon, 305 F. 2d 721, 723 (7th Cir. 1962); see also All States Investors, Inc. v. The Bankers Bond Co., 343 F. 2d 618 (6th Cir. 1965) cert. denied, 382 U.S. 830 (1965); Kelly v. Greer, 365 F. 2d 669 (3rd Cir. 1966); CA ANON Venezolana de Navagaceon v. Harris, 374 F. 2d 33 (5th Cir. 1967).

The January 20th Memorandum contemplates the later execution of a Consent Decree. However, the memorandum clearly and specifically outlines all provisions to be contained in the final Decree. The anticipation of a subsequent document in no way affects the binding nature of the Memorandum as a final settlement. Even an oral agreement to compromise a lawsuit and to later enter into an accord may be a valid contract although not reduced to writing. Autera v. Robinson, 419 F. 2d 1197 (D.C. Cir. 1969), Kelly v. Greer, supra. In cases where there is only an oral agreement, the crucial question to determine whether a binding contract exists is "whether or not the parties intended to be bound and regarded the contemplated written agreement as a memorial of a prior contract or whether they intended only to be bound upon the execution of a written, signed contract." Pyle v. Wolf, 354 F. Supp. 346, 352 (D. Ore. 1972). No such question exists here. The Memorandum contemplates that the final decree shall contain all the provisions contained in the memorandum and that the only matters left open were to be disputes as to the meaning of language and not as to material portions of the settlement.

Since the final decree was intended to simply "memorialize" the prior agreement, the agreement can stand alone as a settlement of this lawsuit.

Subsequent to the execution of this Memorandum, defendants indicated concern about various provisions of the settlement, and plaintiff agreed to numerous changes in order to effectuate a final Decree. However, defendants have continued to seek changes in substantive provisions, claiming that these provisions were beyond the scope of what the Court would Order. While plaintiff believes that each provision of the settlement represents appropriate relief in a case of this kind, once a settlement is agreed to by the parties, it is irrelevant to consider what a court would order after a trial on the merits. As the Court of Appeals for the Fifth Circuit stated in J. Kahn and Co. v. Clark, 178 F. 2d 111, 114 (5th Cir.

1949):

Where the parties, acting in good faith, settle a controversy, the courts will enforce the compromise without regard to what the result might, or would have been, had the parties chosen to litigate rather than settle.

* * *

An agreement of the parties settling a disputed liability is as conclusive of their rights as a judgment would be if it had been litigated instead of compromised.

In view of Mr. Cohn's intended absence immediately after the signing of the Memorandum, it was impossible to draft and execute a Final Decree at that time, and a provision

was inserted providing for the Court to resolve any disagreement as to the meaning of the language of the memorandum. The parties had not then consulted the Court as to its readiness to resolve any such disagreement as to the meaning of the language, and, accordingly, a provision was added specifying that if such disputes could not be resolved*/ the parties will proceed to trial and will be bound to the witness lists incorporated in the Memorandum. Should the court be unable to resolve the differences between the parties as to the meaning of the Memorandum of Understanding - and we believe that the Court can easily do so - then the plaintiff is prepared to proceed to trial pursuant to the last provision in the signed Memorandum.

*/ In view of the very limited character of the questions left open for resolution, all dealing with meaning of language rather than substance the possibility was recognized by all parties to be extremely remote.

CONCLUSION

For the foregoing reasons, we believe that the Memorandum of Understanding should be enforced and a decree entered in accordance therewith.

Respectfully submitted,




FRANK E. SCHWELB
NORMAN P. GOLDBERG
DONNA F. GOLDSTEIN
Attorneys, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

CERTIFICATE OF SERVICE

I hereby certify that on June 4, 1975, copies of the foregoing Memorandum in Support of Plaintiff's Request to Enforce a Settlement Agreement were hand delivered to counsel for the defendants at the following address:

Roy M. Cohn, Esq.
Saxe, Bacon, Bolan & Manley
39 E. 68th Street
New York, New York 10021



DONNA F. GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Coyne

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
	)	CIVIL ACTION NO.
Plaintiff,	)	73 C 1529
)	
v.)	
	)	MEMORANDUM IN SUPPORT
FRED C. TRUMP, et al.,	)	OF PLAINTIFF'S REQUEST
	)	TO ENFORCE A SETTLE-
Defendants.	)	MENT AGREEMENT
_____)	

On January 20, 1975, counsel for the parties in this lawsuit executed a "Memorandum of Understanding" containing the provisions for settlement of the case. The Memorandum was intended as a settlement agreement and contains such language as: "Plaintiff agrees to a continuance solely on the basis of the representation that this case is settled in principle along the lines stated herein." (Emphasis added) Para. 1, p. 1. Because defendants' counsel, Mr. Roy Cohn, was about to leave the country for a matter of weeks, the Memorandum was signed, but the formality of executing a final Decree was postponed until mid-February, 1975. No final Decree has been executed, and plaintiff now seeks to have the settlement enforced.

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Since the final decree was intended to simply "memorialize" the prior agreement, the agreement can stand alone as a settlement of this lawsuit.

Subsequent to the execution of this Memorandum, defendants indicated concern about various provisions of the settlement, and plaintiff agreed to numerous changes in order to effectuate a final Decree. However, defendants have continued to seek changes in substantive provisions, claiming that these provisions were beyond the scope of what the Court would Order. While plaintiff believes that each provision of the settlement represents appropriate relief in a case of this kind, once a settlement is agreed to by the parties, it is irrelevant to consider what a court would order after a trial on the merits. As the Court of Appeals for the Fifth Circuit stated in J. Kahn and Co. v. Clark, 178 F. 2d 111, 114 (5th Cir. 1949):

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*/ In view of the very limited character of the questions left open for resolution, all dealing with meaning of language rather than substance the possibility was recognized by all parties to be extremely remote.

CONCLUSION

For the foregoing reasons, we believe that the Memorandum of Understanding should be enforced and a decree entered in accordance therewith.

Respectfully submitted,



FRANK E. SCHWELB
NORMAN P. GOLDBERG
DONNA F. GOLDSTEIN
Attorneys, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

CERTIFICATE OF SERVICE

I hereby certify that on June 4, 1975, copies of the foregoing Memorandum in Support of Plaintiff's Request to Enforce a Settlement Agreement were hand delivered to counsel for the defendants at the following address:

Roy M. Cohn, Esq.
Saxe, Bacon, Bolan & Manley
39 E. 68th Street
New York, New York 10021



DONNA F. GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

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F.#730959

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ JUN 10 1975 ★

UNITED STATES OF AMERICA,
Plaintiff,

TIME A.M.....
P.M. ORDER TO SHOW CAUSE

-against-

Civil Action No.
73 C 1529

FRED C. TRUMP, et al.,

Defendants.

-----X

Upon the application of the United States and the affidavits filed in support thereof, and good cause having been shown, it is hereby

ORDERED that the defendants herein show cause before this Court, in Courtroom 2 of the United States Court House on June 10th, at 10 a.m., or as soon thereafter as counsel may be heard, why

(1) a permanent injunction should not be entered herein pursuant to the Memorandum of Understanding submitted to the Court herein on January 20, 1975, and the subsequent commitment by defense counsel;

(2) assessing costs against defendants and their counsel in an appropriate amount for unnecessary time and expenditure incurred by counsel for plaintiff herein.

IT IS FURTHER ORDERED that service upon counsel for defendants shall be made by *delivering this order and papers attached at their office* no later than June 6, 1975, at 3:00 P.M. and that this shall constitute good and sufficient service.

Eu

IT IS SO ORDERED this 6th day of June 1975

Edward R. Neaher
EDWARD R. NEAHER
United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA,

Plaintiff,

Civil Action
No. 73 C 1529

-against-

FRED C. TRUMP, et al.,

PLAINTIFF'S
APPLICATION FOR
ORDER TO SHOW
CAUSE

Defendants.

----- X

The United States of America, plaintiff, respectfully moves this Court for an Order requiring defendants to show cause, if any there be, why

(1) a permanent injunction should not be entered pursuant to the Memorandum of Understanding heretofore submitted to the Court on January 20, 1975, and the subsequent commitment by defense counsel;

(2) why costs should not be assessed against the defendants and their counsel, see 28 U.S.C. §1927, in an appropriate amount for unnecessary time and expense incurred by counsel for plaintiff herein.

Plaintiff further prays for such other relief as the interests of justice may require.

The application is based on the affidavits of DONNA F. GOLDSTEIN and FRANK E. SCHWELB and the attachment thereto. The legal basis therefor is set forth in the plaintiff's memorandum herein filed on June 4, 1975.

Respectfully submitted,



FRANK E. SCHWELB
NORMAN GOLDBERG
DONNA F. GOLDSTEIN
Attorneys
U.S. Department of Justice

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----- X

UNITED STATES OF AMERICA,

Plaintiff,

Civil Action
No. 73 C 1529

-against-

AFFIDAVIT

FRED C. TRUMP, et al.,

Defendants.
----- X

STATE OF NEW YORK)
) ss.:
COUNTY OF KINGS)

FRANK E. SCHWELB, being duly sworn, deposes and says:

1. I am the Chief of the Housing Section, Civil Rights Division, Department of Justice, and in supervisory charge of this litigation on behalf of the United States.

2. I am familiar with Ms. Goldstein's affidavit of this date and its contents are true to the best of my knowledge and belief. The contents of my letter of May 8, 1975 to the Court attached to her affidavit are also true.

3. At about 5:35 p.m., after I had waited in Mr. Cohn's office since about 4:15 p.m. (the revised time for our appointment) I asked his secretary to contact him, for me, which she did. I advised him that the decree was satisfactory to Mr. Eskenazi. Mr. Cohn related that he was in a conference with about eleven people on another matter that he could not leave the conference at that time, that he was going to Bermuda for the weekend and would be back on Monday; that we could not get the consent decree signed this week; and that I should leave it at his office; and he would get it signed "next week" after showing it to his clients. He then said he could talk no longer and hung up.

4. My colleagues and I have been attempting to implement the Memorandum of Understanding for about five months, but our attempts have been frustrated by our com-

plete inability to get the elusive Mr. Cohn into a room for the very short time needed to complete the job. Based on these experiences, some of which are set forth in my letter to the Court dated May 8, 1975, I have reluctantly concluded that this matter cannot be expeditiously resolved without the assistance of the Court. I have reached this conclusion because prior "settlements" have been agreed upon with defendants, and submitted to them for their signature, but in each case defendants and their counsel have asked for "one more conference" or have made some request, which has always resulted in additional delay but has never produced the promised final decree. These constant variations and changes have taken up an inordinate amount of my own time, which is spread "pretty thin" anyway since it is my responsibility to supervise all fair housing litigation for the United States throughout the country, and even more of Ms. Goldstein's time and Mr. Goldberg's time. These delays - the most extraordinary in my seventeen years at the bar - have occurred throughout this case despite Magistrate Catoggio's clear warning to defendants, on the record, that counsel's conduct must be governed by 42 U.S.C. §3614, which requires that cases of this kind be "in every way expedited."

5. In view of the foregoing, we ask that this Court tolerate no further delaying tactics of any kind; that our application for an Order To Show Cause be granted, and that this Court promptly enter an Order which implements the settlement previously negotiated and signed by the parties and set forth in the Memorandum of Understanding of January 20, 1975.

Frank E. Schwelb

FRANK E. SCHWELB

Sworn to before me this
6th day of June 1975

Evelyn Sommer

EVELYN SOMMER
Notary Public, State of New York
No. 24 4502158
Qualified in Kings County
Commission Expires March 30, 1977

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA, :
 :
 Plaintiff, :
 - against - :
 FRED C. TRUMP, et al., :
 Defendants. :

AFFIDAVIT
Civil Action
No. 73 C 15

- - - - - X

STATE OF NEW YORK)
 : ss.:
 COUNTY OF KINGS)

I, DONNA GOLDSTEIN, being duly sworn do hereby depose and say:

1. I am an attorney for the United States Department of Justice, and one of counsel for plaintiff in United States v. Fred C. Trump, et al.

2. On ~~June~~^{January} 20, 1975, Norman Goldberg, another of plaintiff's counsel, and I negotiated the settlement of this action by executing a Memorandum of Understanding with defendants' counsel Roy Cohn. The memorandum outlined the provisions to be contained in the final decree which was to be executed by February 24, 1975.

3. Subsequent to the execution of the agreement, and despite numerous efforts by counsel for plaintiff, we have not been able to meet with counsel for defendants to sign a final decree. The details of some of these efforts, over a period of five months, to implement the agreement are set forth in the May 8, 1975 letter of Mr. Frank Schwelb, which is attached hereto.

4. By an Order dated May 19, 1975 this Court scheduled a conference on this matter for June 4, 1975 at 3:00 P.M. At approximately 10:00 a.m., while I was filing a legal memorandum in this action, I was approached by

Mr. Roy M. Cohn, counsel for the defendants, who was in the company of defendants Fred Trump and Mr. Donald Trump and Mr. Irving Eskanazi, an agent of the defendants who had previously participated in the settlement negotiations. Mr. Cohn informed me that he had understood the conference to be at 10:00 a.m., and that he would not be available at 3:00 P.M. as the Court had directed. Accordingly, this fact was made known to the Court while it was engaged in the trial of a criminal matter. During conversations with Mr. Cohn prior to being heard by the Court, he and I again reached agreement on the terms of a final Decree, and the Court was so advised. Mr. Cohn requested that I have a Decree typed in final form and we agreed to meet at his office at 4:00 P.M. the next day, June 5, 1975, at which time the Decree would be executed.

5. My colleague, Mr. Frank Schwelb, who is the Chief of the Housing Section of the Civil Rights Division, United States Department of Justice, had arranged to come to New York in time for the 3:00 P.M. conference and for the principal purpose of completing the resolution of this lawsuit.

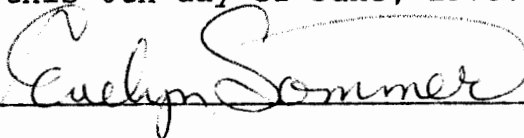
6. On June 5, 1975 Mr. Schwelb and I arrived at Mr. Cohn's offices at the agreed time (earlier changed to 4:15 P.M.). Mr. Cohn, however, did not appear. At approximately 5:35 P.M. Mr. Schwelb, through Mr. Cohn's secretary, contacted Mr. Cohn, who apparently was in conference elsewhere. This conversation is described in Mr. Schwelb's accompanying affidavit.

7. At approximately 5:40 P.M. I telephoned Judge Neaheer's law clerk Mr. David Brown and advised him of what had occurred.

8. Mr. Schwelb, Mr. Eskanazi and I left Mr. Cohn's offices at approximately 5:45 P.M.


DONNA GOLDSTEIN

Subscribed and sworn to before me this 6th day of June, 1975.



EVELYN SOMMER
Notary Public, State of New York
No. 24-4502158
Qualified in Kings County
Commission Expires March 30, 19 77

T. 5/8/75

MAY 8 1975

JSP:FES:der
DJ 175-52-11

Honorable Edward R. Neaher
United States District Judge
Eastern District of New York
225 Cadman Plaza East
New York, New York 11201

Re: United States v. Fred C. Trump, et al.,
C.A. No. 73 C 1529

Dear Judge Neaher:

We are writing to you to respond to your law clerk's inquiry about the status of this case and to request the assistance of the Court once again to implement a settlement of the above-styled lawsuit, previously agreed to by the parties. Despite painstaking and time-consuming efforts by my colleagues and myself to complete the settlement through telephone conversations with Mr. Cohn and lengthy conferences with his clients, we have been unable to reach a final resolution of this matter.

As the Court is aware, on January 20, 1975, the parties executed a Memorandum of Understanding, attached hereto as Appendix A, incorporating a proposed Consent Order and specifically outlining the terms of a settlement. That Memorandum is on file with the Court. It was only because of the execution of this document, and the representation contained therein that the lawsuit had been settled, that the plaintiff agreed to the adjournment of the second trial date of January 27, 1975. In fact, in the Memorandum the parties agreed to the entry of the Consent Order on or before February 24, 1975. In addition, the Memorandum provides (starting on the bottom of page 3):

cc: Records
Chrono
Schwelb
Goldstein
Goldberg
Trial File

If no final consent has been executed by February 14, 1975, the parties shall so inform the Court. The parties shall then seek the assistance of the Court to resolve any disputes arising solely out of disagreement as to the meaning of any proposed change referred to in the Memorandum of Understanding. All other provisions in the attached Consent Decree and those not in dispute as to meaning in the Memorandum of Understanding shall be contained in their entirety in the final Consent Decree.

On February 4, 1975, a copy of a proposed Consent Order (attached hereto as Appendix B) based on the settlement outlined in the Memorandum of Understanding was forwarded to Mr. Roy Cohn, defendants' counsel. We were unable to contact Mr. Cohn to agree on the terms of a settlement, and we wrote to this Court on February 18, 1975, seeking a conference. The Court scheduled a conference for March 5, 1975, which was later cancelled by reason of the Court's illness.

Thereafter, Mr. Cohn forwarded to this office a proposed Consent Order which omitted many of the major provisions of the settlement terms agreed to in the January 20th Memorandum. (A copy of this proposal is attached hereto as Appendix C.) On March 14, we wrote Mr. Cohn a letter, a copy of which is attached as Appendix D, indicating that we believed the terms of the settlement had been fixed by the Memorandum of Understanding filed in this Court and that we therefore found the defendants' proposal completely unacceptable. On April 15, 1975, after we had again encountered substantial difficulties in finding anyone with whom to deal, defendant Fred C. Trump, and his colleague Mr. Irving Ekanazi came to Washington to meet with counsel for plaintiff, * without their counsel but with his consent, to

*/ This meeting took place only after Mr. Cohn twice cancelled scheduled conference calls between him, defendant Donald Trump, and counsel for the United States which were supposed to resolve the controversy once and for all. Subsequently, Mr. Cohn advised counsel that defendant Donald Trump would come to Washington to negotiate, but his father and Mr. Ekanazi came instead.

discuss the terms of the final Consent Order. Despite our often stated position that we had negotiated in good faith the terms of a settlement which we considered binding on the parties by the signed Memorandum of Understanding, all three counsel for plaintiff spent half a day with Mr. Trump and Mr. Eskenazi, and Ms. Goldstein spent the remainder of the day with Mr. Eskenazi, working out what we understood to be a final settlement. It was the understanding of all concerned that Mr. Trump and Mr. Eskenazi were negotiating for all defendants. A meeting was arranged for April 23 to take place in New York for the purpose of executing the settlement and on April 19, 1975, a last proposed Consent Order which set forth the precise understanding between Ms. Goldstein and Mr. Eskenazi, was sent to Mr. Cohn. A copy of that document is attached hereto as Appendix E.

On April 22, Mr. Cohn informed us by telephone that he now wished to make new changes in the terms of the settlement. These proposed changes were represented to us as being "minor", and, despite some misgivings, a meeting was scheduled in New York for May 2, 1975 for the purpose of working out these minor changes and executing a final consent decree for presentation to this Court. On May 2, 1975 Ms. Goldstein met with Mr. Fred Trump and Mr. Irving Eskenazi at the law offices of defendants' counsel. Mr. Cohn was again not present. Defendants proposed several new changes, and several were conditionally agreed to by plaintiff even though they were inconsistent with the Memorandum of Understanding. Defendants also made new proposals, however, which in our judgment would have changed the character of the settlement and seriously impaired the effectiveness of the Decree, and to which we were unable to agree.

Specifically defendants now propose to delete provisions, previously agreed to, dealing with the inclusion of fair housing statements in advertising [see III A(3) p. 8 of Appendix B (the

Proposed Consent Order pursuant to the Memorandum of Understanding) and Section IV A(3) p. 8 of Appendix E (the Proposed Consent Order drafted pursuant to the April 15 meeting)], and with affirmative steps to ensure equal employment opportunity (see III C p. 11 of Appendix E */ and IV C p. 19 of Appendix E). In the Memorandum of Understanding agreed to on January 20, 1975, (Appendix A) and in the settlement negotiated with Mr. Trump and Mr. Eskanazi (Appendix E), the Injunction, including the affirmative provisions, applied to all of defendants' properties in New York City. **/ The reporting provisions (part V, p. 15 Appendix B, and part VI, p. 17, Appendix E) were to apply to fifteen properties. ***/ Defendants now propose, contrary to the explicit provisions of prior agreements, that the affirmative provisions of the Decree (see part III of Appendix B and part IV of Appendix E) apply only to those properties listed in the reporting provisions. This proposal is inconsistent with what has been previously settled and makes the decree far less effective in ensuring the full enjoyment of equal housing opportunity. While we have, at defendants' request, agreed to a number of changes in the January 20th Memorandum of Understanding, even though defense counsel had then represented it to be a final settlement, we cannot agree to the three most recent proposals. Defendants apparently take the position that without these new alterations, all three at odds with what they have previously signed, they will not execute a consent decree as they have previously committed themselves to doing.

*/ At the May 2 meeting, plaintiff conditionally agreed to delete III C(1) of the decree.

**/ See Brennan v. Fields, 488 F. 2d 443 (5th Cir. 1974) for the propriety of relief at complexes other than those at which the alleged discrimination occurred. In Fields, nationwide relief was granted, whereas here, we negotiated affirmative provisions applicable only to New York, and not affecting defendants' properties in New Jersey, Maryland and Virginia.

***/ Reduced to fourteen at subsequent meetings.

In light of the forgoing, we are now requesting the Court's assistance in accordance with the provisions of the Memorandum of Understanding quoted at the beginning of this letter. We believe that we have exhausted all reasonable avenues towards securing a final consent decree short of requesting the assistance of the Court. The United States agreed to a second postponement of the trial in this case, which is required by statute to be expedited, 42 U.S.C. §3614, solely on the representation that the terms of a Consent Order has been agreed to by the defendants. Now, nearly four months later, it appears that the defendants do not consider themselves to be bound by prior agreements, including the Memorandum of Understanding filed in this Court.

The January 20th agreement specifically states that all provisions not in dispute as to meaning "shall be contained in their entirety in the final Consent Decree." Accordingly, we respectfully request that the Court exercise the authority contemplated by the Memorandum of Understanding, and

- (1) resolve the three issues separating the parties by evaluating the present positions of the parties as against the Memorandum of Understanding; and
- (2) enter an Order pursuant to that Memorandum of Understanding, either by issuing a document in the form of Appendix "E" as the Court's Order, or by entering an Order based on the Memorandum of Understanding and the initial proposed Consent Order attached thereto (Appendices A and B).

We are, of course, ready to meet with the Court and with defense counsel at the Court's convenience to resolve this matter, and we hope that this litigation can be completed without further delay. In view of the constant attempts by defendants to renegotiate what has already been settled, and in view of defense counsel's consistent unavailability, we do not think

that further negotiations without the assistance of the Court would be any more productive than the many dozens of attorney-hours already spent. Once a settlement in substance has been reached between counsel which provides for resolution by the Court of any difficulties in completing the settlement, then we believe that the parties are required to utilize the machinery for resolution by the Court of disputes as to the meaning of the Understanding, and are not free to disregard prior commitments.

In the event that the Court should think it inappropriate to require the defendants to comply with their prior agreements, then we must reluctantly request that the case be scheduled for trial at an early date. In this connection, the Memorandum of Understanding includes a list of witnesses for each side, and only four witnesses - the two Tramps, Althea Gibson, and one NAACP representative - are eligible to testify for defendants. Accordingly, substantially all of plaintiff's case will be uncontradicted. Since the case was, for all practical purposes, settled once, it would seem to be an unnecessary expenditure of time and resources to go to trial. Nevertheless, if the defendants are not to be bound to their prior bargains, we will be ready to proceed.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By:

FRANK E. SCHWELB
Chief
Housing Section

cc: Mr. Roy M. Cohn
Mr. Henry Brachtl

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA, :
 :
 Plaintiff, : AFFIDAVIT
 - against - : Civil Action No.
 : 73 C 1529
FRED C. TRUMP, et al., :
 :
 Defendants. :
-----X

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

ROY M. COHN, being duly sworn deposes and says:

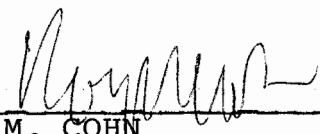
1. Agreement has been reached on the substance of all provisions in the consent decree, and the minor language modifications will be made later today.
2. These constant applications to the Court by the Civil Rights Section are assuming the aspects of paranoia. Without boring the Court with a minute by minute recital, Mr. Eskenazi met with Miss Goldstein and Mr. Schwelb at the appointed time at my office, and solved the very few remaining problems. I did not get out of court at the DeGiarde habeas corpus proceeding before Judge Grumet until late afternoon, and had to stop at another legal conference on the way uptown. I called in and was told by Mr. Eskenazi that things were worked out except for the actual signatures, and I was not needed.
3. I asked to have a copy left for me and my clients and suggested it be signed this week. Mr. Schwelb came on the phone in hysterics and kept repeating the same thing, which was that everything was agreed upon and when could it be signed. I told him this week after I had reviewed the final draft with my clients. I arrived at the office and found that Mr. Schwelb had left, which was fine. Mr. Schwelb fails to state in his affidavit

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that he returned to my office about an hour after he had left, came into my office, to which I had returned, had a brief exchange of pleasantries, said nothing about any dissatisfaction in the signing of the papers this week, and then left.

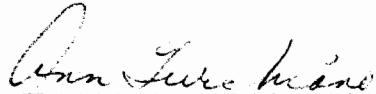
4. The business about costs is absolutely ridiculous. We have gone so far to appease Mr. Schwelb that Mr. Fred Trump and Mr. Eskinzi themselves went to Washington to work out the language for the decree rather than inconvenience Mr. Schwelb and Miss Goldstein by having them come to New York.

5. It is respectfully submitted that a date convenient to the Court be fixed for the signing of the decree by the parties, and the acceptance thereof by the Court.



ROY M. COHN

Sworn to this 9th
day of June, 1975



ANN TURCHIANO
Notary Public, State of New York
No. 31-4035040
Qualified in New York County
Commission Expires March 30, 1977

CLOSED

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y

CIS:HAB:ec UNITED STATES DISTRICT COURT
F. # EASTERN DISTRICT OF NEW YORK

★ JUN 10 1975 ★

----- X

TIME A.M.....
P.M.....

UNITED STATES OF AMERICA,

Plaintiff,

CONSENT ORDER

- against -

Civil Action
No. 73 C 1529

FRED C. TRUMP, DONALD TRUMP
and TRUMP MANAGEMENT, INC.,

Defendants.

X M'FILMED

This action was instituted by the United States of America on October 15, 1973, pursuant to the Fair Housing Act of 1968, 42 U.S.C. §3601 et seq.

The claim of the United States is that the defendants have failed and neglected to exercise their affirmative and nondelegable duty under the Fair Housing Act to assure compliance by their subordinates, with the result that equal housing opportunity has been denied to substantial numbers of persons and that defendant's subordinates have failed to carry out their obligations under the Act.

Defendants vigorously deny said allegations.

Accordingly, without adjudication of the merit and without any admission as to the existence or absence of liability, and in order to resolve this matter without further protracted litigation, the parties hereto are prepared to resolve this case by the entry of a Consent Decree.

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It is expressly understood and agreed that the execution of this Agreement by Trump Management, Inc., is in no way an admission by it of a violation of the prohibition against discrimination as set forth in the Fair Housing Act of 1968, or any other applicable statute, rule or regulation.

Irrespective of the merits of the complaint, however, the principal officers of defendant Trump Management, Inc., are prepared to affirmatively assume and carry out the responsibility for assuring that their employees will comply with the Act and will promote equal opportunity. Accordingly, the parties are prepared to resolve this case by the entry of the following Consent Order.

I.

It is hereby ORDERED, ADJUDGED and DECREED that in consideration of their affirmative assumption of responsibility contained in part III herein, the complaint against Fred C. Trump and Donald J. Trump is dismissed against them in their personal capacity, with prejudice, as to all allegations contained therein, and predating this Order.

II.

INJUNCTION

It is hereby ORDERED, ADJUDGED and DECREED that the defendant, its officers, agents, employees, successors, and all persons in active concert or participation with any of them, are hereby permanently enjoined from:

GENERAL INJUNCTIVE PROVISIONS

1. Refusing to sell or rent, refusing to negotiate for the sale or rental of, or otherwise making unavailable or denying any dwelling to any person on account of race, color, religion, sex or national origin.

2. Discriminating against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex or national origin.

3. Making, printing, or publishing, or causing to be made, printed, or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex or national origin, or an intention to make such preference, limitation or discrimination.

4. Representing to any person because of race, color, religion, sex or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

5. Influencing the residential choice of any person on account of race, color, religion, sex or national origin.

6. Coercing, threatening, or interfering with, or attempting to coerce, threaten or interfere with any person in the exercise or enjoyment of the right to equal housing opportunity protected by the Fair Housing Act of 1968, or in the exercise or enjoyment of the right to assist others to secure equal housing opportunity.

7. Engaging in any act or practice which has the purpose or the effect of denying or abridging the right to equal housing opportunity protected by the Fair Housing Act. In this connection, defendants shall not, in determining the income qualification for rental of any person, family, or other group of persons, fail or refuse to fully count a woman's total income, including salary, wages, alimony, support payments or other income from whatever source received.

III

ASSUMPTION OF RESPONSIBILITY BY PRINCIPALS OF TRUMP MANAGEMENT INC., AND TRAINING PROGRAM FOR AGENTS AND EMPLOYEES

Trump Management Inc., controls many thousands of rental units in the New York area and elsewhere, and its activities therefore have a major impact on housing opportunities. The company therefore occupies a position of leadership in the real estate community and can, by its example, influence the activities not only of its own agents and employees but also of many others. The Fair Housing Act prohibits conduct which is discriminatory in its effect, regardless of motivation, and violations of the Act can result from thoughtlessness and lack of information, as well as from deliberate discrimination.

Accordingly, it is ORDERED as follows:

A. The principal officers of Trump Management, Inc., shall forthwith

(1) thoroughly acquaint themselves personally on a detailed basis with all of the obligations of the defendant under the Fair Housing Act of 1968, as amended and as judicially interpreted; under state and municipal civil rights laws; under pertinent Regulations and Guidelines of the Department of Housing and Urban Development and other appropriate agencies; and under this Order;

(2) Take steps to assure that their principal assistants and officers similarly familiarize themselves with their obligations; and

(3) Personally undertake to assure that the training program set forth herein is successfully carried out.

B. Within thirty (30) days of the entry of this Decree, the Defendant by its principal officers, shall conduct and complete an educational program for all employees with rental or employment responsibilities, who have contact with prospective tenants, provide information to the public about rental, or accept or process applications for rentals, or who are engaged in any manner in the employment process, to inform them of the provisions of this Decree, and their duties under the Fair Housing Act of 1968. Such program shall include:

(1) Furnishing to each such agent and employee a letter summarizing the terms of this Decree and of the Fair Housing Act as it applies to the employee.

(2) Informing each such agent and employee, in person or by general meeting, of the provisions of this Decree and of duties of the Company and its agents and employees under the various applicable Fair Housing Acts. Each such agent and employee shall be advised that his failure to comply with the provisions of this Decree shall subject him to dismissal or other disciplinary action, and to sanctions for disobedience of this Order.

(3) Securing a signed statement from each such agent that he has read the letter mentioned above and received the instructions described in the preceding paragraph and forwarding a copy of each such signed statement to plaintiff.

Each new agent and employee shall be instructed in accordance with the procedures set out above and shall be required to sign a statement to the effect that he has been so instructed and will comply with such instructions within ten (10) days following the initial date of employment. Copies of all signed statements will be furnished to plaintiff upon execution.

IV

AFFIRMATIVE PROGRAM

It is further ORDERED that the defendant shall forthwith */ and for a period of two (2) years following the entry of this Order take the following steps to adopt and implement an affirmative program aimed at ensuring compliance with the Fair Housing Act of 1968:

A. Notification to the Community of Defendant's Nondiscriminatory Policy

1. Notify the Open Housing Center of the New York Urban League, 150 Fifth Avenue, New York, New York, in writing, with copies to counsel for plaintiff that apartments owned or managed by the defendant are available to all qualified persons without regard to race, color, religion, sex or national origin, *as hereinafter provided.* Included in such letter shall be a full synopsis of the rental standards and procedures outlined in Part V, below, and a general statement of present and anticipated vacancies in Trump apartment buildings in the New York Metropolitan area. The parties shall agree on the text of an appropriate letter prior to its mailing. Subsequently, defendant shall mail to the Open Housing Center a copy of its weekly Central Listing of vacancies described infra in Part V of this decree. This mailing shall be done on the day the list is made. ~~The Open Housing Center may, at its own discretion, forward copies of the above-mentioned letter and weekly list of vacancies to any and all persons or organizations with an interest in promoting equal housing opportunities.~~

*/ The defendant's obligations to implement each provision of this Order for affirmative action shall begin ten (10) days following the entry of this Order, unless otherwise specified herein.

2. Post and maintain fair housing signs in a form approved by the Secretary of the Department of Housing and Urban Development (HUD) */ in all offices of the defendant where there is rental activity or public contact.

3. Implement an advertising program aimed at informing the nonwhite community of defendant's nondiscriminatory rental policy. The defendant shall

a. Include, in all advertising, ^{for New York City apartment buildings} ~~*/ in news-~~
~~papers,~~ telephone directories, radio, television and other media, and on all billboards, signs, pamphlets, brochures, and other promotional literature the words "Equal Housing Opportunity" and the fair housing logo. These words and the logo shall be prominently placed and easily legible. ~~*/~~ In addition, all advertising placed by the Company or its agents shall conform to the practices recommended in the Department of Housing and Urban Development advertising guidelines, as published in 37 Fed. Reg., pp. 6700-02, on April 1, 1972. A copy of these guidelines is attached as Appendix "B" to this Order.

*/ See the pertinent HUD regulation, 37 F.R. 3429 (a copy attached hereto as Appendix A).

Wm *to*
~~*/ This subsection dealing with newspaper advertising shall only apply to newspaper ads of eight (8) lines of print or more. Defendant shall continue its present advertising policies, and shall not change its present practices with respect to the size and type of advertising by shortening or by otherwise changing its policy of placing display ads to avoid the requirement of including the equal opportunity statement.~~

Wm
*/ In radio and television advertising, the words "equal housing opportunities" shall be used and shall be easily audible.

09
Mm

(b) Insert in a newspaper of general circulation, such as the New York Times, one Sunday in every month, an advertisement at least 3 inches in length advertising available apartments in particular sections of New York City. Apartments advertised pursuant to this section shall be selected on a rotating basis so that each apartment building is so advertised at least once yearly. This ad shall contain at its foot, in prominent capital letters, the words "Equal Housing Opportunity."

8(a)

(c) Allocate a reasonable proportion of its advertising budget to advertising in media directed primarily to the black and Puerto Rican communities. The parties have agreed that the placement of monthly 15 line display advertisements, one in the black and one in the Puerto Rican press, */ together with the allocation of 10% of defendant's radio advertising budget to black-oriented and Spanish language stations, shall meet the requirements of this provision. All advertisements of Trump buildings in minority media shall advertise a full cross-section of Trump buildings with vacancies, and shall not stress or give undue emphasis to buildings with substantial minority occupancy. **/

4. Provide written notification to each firm, association company, corporation, or other person or organization engaged by defendant to act as referral agency, apartment locating service, credit checking company, or management company that apartments owned or managed by the defendant are available to all qualified persons without regard to race, color, religion, sex or national origin. Each such notification shall also advise the recipient of defendant's objective standards and procedures for rental.

*/ The parties agree that the placement of such advertisements in the Amsterdam News and El Diario will satisfy this requirement.

**/ If the listed apartments do not include all Trump buildings with vacancies, the buildings listed shall be rotated with each ad so that the same apartment buildings are not continuously or disproportionately advertised under this subsection.

B. Program of Providing Listings for Minority Apartment Seekers

For two years after the entry of this Order, defendant shall notify the Open Housing Center of the New York Urban League, 150 Fifth Avenue, New York, New York, 10003, of every fifth available apartment in each apartment building owned and/or managed by the defendant which has a black tenancy of less than ten percent,*/ at least three days prior to placing that apartment on the open market.**/ During this three-day period, the Open Housing Center shall have the opportunity to refer qualified applicants to the defendant for the purpose of renting the apartment. All applicants referred by the Open Housing Center shall provide the defendant or its representative with an appropriate identification which will serve to advise the defendants that such applicant has been referred by the Open Housing Center pursuant to this subsection. After three days if no qualified applicant referred by the Center has filed an application seeking to rent the apartment, the apartment may be placed on the open market to be rented in defendant's normal business custom without regard to race, color, religion, sex or national origin.***/

C. Affirmative Employment Program

The defendant shall recruit, hire, assign, promote and transfer employees and agents without regard to race, color,

*/ The requirements of this provision need not be followed for apartment buildings which presently have or in the future reach a black occupancy rate of 10%. For these apartment buildings, apartments shall continue to be rented without regard to race, color, religion, sex or national origin.

**/ The three-day period shall begin when notification has been completed and the Open Housing Center has received, either in person, by telephone, or by mail, the listings. For purposes of this Decree, rental on the open market shall mean rental to any person not referred by the Open Housing Center.

***/ This provision shall not apply to Trump Village.

religion, sex or national origin and will endeavor to place blacks and other nonwhite persons in supervisory and professional positions as vacancies for which they are qualified arise.

Pursuant to this program, the defendant shall take the following steps:

1. Display an equal employment opportunity poster */ in a prominent place clearly visible to prospective agents, employees, and applicants for employment in each office of the defendant where applications for employment are taken.

*/ This poster shall be in the form, size and prominence approved by the United States Department of Labor and the Equal Employment Opportunity Commission.

2. Notify in writing, each labor union representing any part of defendant's work force of the terms of Part IV(C) of this Decree and that prospective employees are to be referred without regard to race, color, religion, sex or national origin.

In recruiting and hiring nonwhite employees, the defendant shall not require that nonwhite persons recruited or hired possess qualifications for any job or position more exacting than those which were in effect with respect to white employees before the institution of this action.

V

IMPLEMENTATION OF OBJECTIVE RENTAL
STANDARDS AND PROCEDURES

In order to assure nondiscriminatory selection and assignment of tenants and to assure equal opportunity in housing at each building owned or managed by Trump Management, Inc., defendant agrees that the following standards and procedures shall be uniformly applied at all of its properties in determining whether or not to rent to an applicant. */

A. Standards

1. Income

One week's gross income from all sources **/ must be at least equal to one month's rent, except in the following circumstances:

(a) The applicant(s) have outstanding automobile payments, or other fixed debt in excess of \$50.00 a month, with a remaining debt period in excess of four (4) months, or

*/ The following standards shall not be applicable to Tysens Park which is subject to other federal regulations imposed by §221(d) of the National Housing Act.

**/ This shall include alimony, child support, public assistance payments, or guarantor's assurances on behalf of public assistance recipients, wife's income, part-time employment, pensions, etc.

(b) The family composition is in excess of three (3) persons.

In either circumstance (a) or (b) above, one week's net income must be at least equal to one month's rent.

If an applicant does not meet the foregoing income standards, he or she may still qualify for rental if:

(a) He or she secures a guarantor who can verify funds sufficient to meet the financial obligations of the guarantors fixed monthly payments for his or her residence, as well as the applicant's rental, based on the defendant's income standards.

(b) If the applicant is willing to post three (3) months security deposit or will supply six (6) months rent in advance.

(c) If a tenant switches from one Trump building to another Trump building and if that tenant has met his obligations to Trump Management, Inc., in the past.

2. Occupancy

Not more than two (2) persons in a one-bedroom apartment. ~~Not more than four (4) persons, two (2) adults and two (2) children of the same sex,*/ in a two-bedroom apartment.~~ *For a two-bedroom apartment, defendant shall, in a uniform manner, adhere to its past practices with respect to occupancy.*

B. Procedures */

1. Application Procedure

~~*/ Except that children under ten years of age may be of different sexes.~~

*/ These procedures are substantially based on defendant's past practices, as described during discovery.

a. Applications for tenancy will be received at the apartment building or complex where the tenant is applying for an apartment. Applications shall be received by Superintendents or rental agents authorized by the defendant to accept applications, and instructed in the requirements of this Order and of the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq. Applications shall be accepted from all persons wishing to apply and the superintendent or agent shall make no subjective judgment on the acceptability of a prospective tenant, unless said prospective tenant is:

- (i) visibly and objectively drunk and disorderly;
- (ii) visibly and objectively under the influence of drugs;
- (iii) abusive towards the superintendent or rental agent;

or there is,

(iv) a visible and objective indication that the applicant will not maintain his or her apartment with sufficient care and cleanliness so as not to intrude on the rights of other tenants. In order to satisfy this criteria, defendant or its agents shall contact the applicant's former landlord to ascertain the manner in which he or she had maintained the rented premises. In no event shall the subjective impression by a superintendent of the manner of dress or style of grooming disqualify an applicant. This subsection shall apply solely to cleanliness criteria.

b. The superintendent or rental agent shall review the application for completeness and shall require a security deposit of one month's rent and a W2 form (or reasonable substitute therefor) from all applicants. The agents shall then submit the deposit, W2 form and application, for review and determination to one of the defendant's two main offices. No superintendent or rental agent shall have the authority to make a determination on the acceptability for tenancy of an applicant except as outlined in B(1)(a) (i-iv) above.

c. Applications shall be reviewed and a determination of acceptability shall be made by the Section Managers employed in the defenant's main offices.

d. If conducted, a uniform credit check and/or employment check shall be conducted with respect to each applicant. The standards of acceptability based on credit and employment shall be uniformly applied without regard to race, color, religion, sex or national origin.

e. Each applicant shall be informed wherever possible within ten (10) business days whether or not he or she has been accepted for tenancy. If an application can not be processed within ten (10) days, defendant shall notify the applicant of the reason therefor, but in no event shall an applicant not be informed of the disposition of his application beyond twenty (20) days from the time he or she applied. If rejected, the applicant shall be informed of the reason for rejection, and of the specific objective standard he or she has failed to meet. */

*/ Applicants who have not been accepted for tenancy pursuant to V(B)(a) above need not be informed of the reasons for the defendant's decision not to accept his or her application. However, defendants shall still note the reason for non-acceptance in its records and its reports to plaintiff pursuant to Sections VI and VII herein.

2. Providing Rental Information to Apartment Seekers

a. Defendant shall maintain at its central offices at 2611 West 2nd Street, Brooklyn, New York and 2064 Cropsey Avenue, Brooklyn, New York, a Central Listing, to be compiled on a weekly basis, of each currently vacant or available apartment in the New York area, and of each apartment expected to be vacant or available in the New York area within the next thirty days. This list shall include the type of apartment, the number of rooms, the monthly rent, and the date of availability and shall be shown to all persons inquiring about available apartments. Defendant shall also maintain at each of its buildings a similar list of the apartments vacant at that building by type of apartment available and a notification that complete lists of all available apartments in the New York area are available for inspection at defendant's main offices located at 2611 W. 2nd Street, Brooklyn, New York and 2064 Cropsey Avenue, Brooklyn, New York.

b. Apartments which are available for rental and listed on the apartment availability list (2(a) above) shall be shown to all interested inquirers by an authorized agent of the defendant.

c. Inquirers shall be uniformly informed of the qualifications for rental, including the income, security deposit and W2 form requirements.

d. No waiting list*/ will be maintained at any of the defendant's offices or apartment buildings nor shall there be any preference for persons referred by present tenants. Rental will be on a first-come, first-served basis when apartments are available for rental.

VI

REPORTING REQUIREMENTS

It is further ORDERED that three (3) months after the entry of this Decree, and thereafter three (3) times per year for two years the defendant shall file with the Court and serve on counsel for the plaintiff a report containing the following information for the following apartment buildings owned and/or managed by the defendant:

1. Argyle Hall
2. Westminster Hall
3. Fontainebleau Apartments
4. Lawrence Gardens and Lawrence Towers
5. Sea Isle Apartments
6. Bachaven Apartments
7. Shorehaven Apartments
8. Belcrest Apartments
9. Highlander Hall
10. Saxony Hall
11. Clyde Hall
12. Edgerton Apartments
13. Winston Hall
14. Sussex Hall

*/ Since this is defendant's present practice and it is non-discriminatory, plaintiff interposes no objection thereto.

Re Trump Village shall be excepted from this provision prohibiting the use of a waiting list.

PLM

a. The number of persons, by race*/ (as visually observable) making inquiry in person about the availability of terms of rental of an apartment during the preceding reporting period and the number by race, that:

1. made inquiry;
2. were offered an application;
3. filled out an application;
4. submitted an applicant with deposit;
5. were accepted for occupancy;
6. were rejected;
7. withdrew applications;
8. had applications pending at the end of the reporting period.

This report may be forwarded to plaintiff on a form similar to the sample form attached hereto as Appendix C.

b. A report reflecting the applications for tenancy submitted during the preceding reporting period, including the following information for each person submitting an application:

1. name, address, business and home telephone number, and race;
2. date of application;
3. whether a deposit was received;
4. date notified of acceptance or rejection;
5. weekly income of applicant and monthly rent of apartment sought;

*/ For purposes of this Decree, all notations of race shall be as visually observable.

6. if accepted, apartment chosen;
7. if rejected, reason therefor;
8. name of person or persons who decided to accept or reject the application;
9. if neither accepted nor rejected, status or disposition of application.

This report may be forwarded to plaintiff on a form similar to the sample form attached hereto as Appendix D. For each rejected nonwhite applicant, the report shall include a detailed statement of the reason(s) for rejection and supporting information.

c. A list of vacancies during the preceding quarter, including the date the apartment was placed on the market */ and the date each apartment was rented or otherwise committed for rental.

d. Reports filed pursuant to this Order shall also include the current statistics with respect to the race of tenants in each apartment building owned or managed by the defendant, and an account of the steps taken during the preceding reporting period to implement the program outlined in Sections I and II above, including:

1. Copies of all letters sent to apartment locators and credit checking companies, Fair Housing groups, and labor unions pursuant to Parts III and IV of this Decree.

*/ Including where appropriate, the date the Open Housing Center was contacted concerning the apartment's availability in accordance with Part III above.

2. Representative copies of all newspaper advertisements placed in the Amsterdam News and El Diario pursuant to this Order and the date of each advertisement.

3. The name, race, position and office assignment of each rental agent, superintendent and main office employee employed as of the date of the entry of this Order, an assurance that the educational program required by Part II has been conducted, and copies of all signed statements obtained in accordance with Part II of this Decree. If any rental agent refuses to sign such a statement the defendants shall include a full statement of all pertinent circumstances and of any action taken by them in relation thereto.

VII

RECORD KEEPING PROVISIONS

*for New York City
properties* *WJ*

IT IS FURTHER ORDERED that the defendant shall; for two years following the entry of this Decree, make and preserve the following records for all apartment buildings owned or managed by them:

1. The name, address, telephone number and date and time of contact of each person inquiring in person about the availability or terms of rental of an apartment therein, */ and the size of apartment sought, if known.

*/ This may be accomplished by maintaining a guest register at each apartment building owned by the defendants.

2. A detailed record of all action taken on each application and the reasons for such action, including all steps taken by the defendant in ascertaining the acceptability for tenancy of the applicant and the name of the employee who took such steps or who approved or rejected the application.

3. All records which are the source of, or contain any of the information pertinent to defendant's obligations under this Order. Representatives of the plaintiff shall be permitted to inspect and copy all pertinent records of the defendant at any and all reasonable times, provided, however, that the plaintiff shall endeavor to minimize any inconvenience to the defendant from the inspection of such records.

VIII

It is further ORDERED that for a period extending two years from the entry of this Decree, the defendant shall, at least twenty (20) days prior to the event, report to counsel for the plaintiff:

1. Any new ownership or management interests in residential property, acquired by the defendant.

2. The divestment through transfer or sale, of any ownership or management interests in residential property.

IX

It is further ORDERED that for a period of two years after the entry of this Decree the defendant shall advise counsel for plaintiff, in writing, of all complaints, */ from

*/ For purposes of this Decree, "complaints" shall mean any information which comes to the attention of the defendant or its officers from whatever source received, which indicates a possible denial of equal housing opportunities under the Fair Housing Act, 42 U.S.C. §3601 et seq., or a potential violation of this Decree.

whatever source, received by the defendant regarding equal opportunity in housing at properties owned and/or managed by Trump Management, Inc. In addition, plaintiff shall, for a period of two years after the entry of this Decree, notify the defendant of all complaints received by the plaintiff.

Except where the plaintiff determines that there exists a need for emergency relief threatening the effectiveness of this Decree, the plaintiff shall afford the defendant fifteen (15) days from the date notice of such a complaint is received to investigate the complaint and provide plaintiff with an explanation of the information contained in the complaint. If the complaint is determined to be valid by either party, plaintiff shall recommend what steps it believes to be necessary to correct the conditions leading to the complaint, and shall afford the defendants an additional seven (7) days to effectuate appropriate steps to remedy the conditions leading to the complaint and to overcome any continuing effects of the alleged discriminatory actions before applying to the court for a motion to compel compliance with this Decree, or any other additional judicial relief.

X

Each party shall bear its own costs.

The Court shall retain jurisdiction of this action
for all purposes.

ORDERED this 10th day of June, 1975.

Edward R. Neaher

EDWARD R. NEAHER
United States District Judge

The undersigned apply for and
consent to the entry of this
Order:

For the Defendants:

Roy M. Cohn

ROY M. COHN
Saxe, Bacon, Bolan & Manley
39 E. 68th Street
New York, New York

Fred C. Trump

FRED C. TRUMP

Donald Trump

DONALD TRUMP

For the Plaintiff:

Frank E. Schwelb

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Norman P. Goldberg

NORMAN P. GOLDBERG
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Donna F. Goldstein

DONNA F. GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

DAVID G. TRAGER
UNITED STATES ATTORNEY

By: *Henry Brachtel*

HENRY BRACHTL
Assistant U.S. Attorney
Eastern District of New York

Rules and Regulations

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter I—Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development

SUBCHAPTER A—FAIR HOUSING

[Docket No. R-72-165]

PART 110—FAIR HOUSING POSTER

The purpose of this regulation is to require the display of a fair housing poster by persons subject to sections 804-806 of the Civil Rights Act of 1968 and to prescribe the content of this poster.

Notice of a proposed amendment to Title 24 to include a new Part 72 was published in the FEDERAL REGISTER on August 4, 1971 (36 F.R. 14336). (Under the reorganization of Title 24 published in the FEDERAL REGISTER on December 22, 1971 (36 F.R. 24402), the fair housing poster will become new Part 110.) Comments were received from approximately 20 interested persons and organizations and consideration has been given to each comment.

Some comments with respect to proposed § 72.10 criticized the coverage of the proposed regulation as too broad, while other comments objected that the coverage is too narrow, and various suggestions were made for changes in coverage. Comments were directed not only to what dwellings should be included but also to the stage at which the requirement should take effect and the persons to whom it should apply. In response to the comments, § 72.10(a) (now § 110.10 (a) and (b)) has been revised to clarify the extent of coverage, to broaden coverage to the extent appropriate and to eliminate unnecessary burdens where the requirement can appropriately be narrowed or eliminated. Under § 110.10 (a) and (b), display of the prescribed poster at a single-family dwelling is not required unless the dwelling is being offered for sale or rental in conjunction with the sale or rental of other dwellings; however if a real estate

broker or agent is handling the sale or rental, he must display the poster at any place of business where the dwelling is being offered for sale or rental. With respect to all other dwellings covered by the Act, the poster must be displayed at any place of business where the dwelling is offered for sale or rental; in addition, the poster must be displayed at the dwelling, except that in the case of a single-family dwelling being offered for sale or rental in conjunction with the sale or rental of other dwellings, e.g., a subdivision, the poster may be displayed at model homes instead of at each of the individual dwellings. Finally, in the case of dwellings other than a single-family dwelling not being offered for sale or rental in conjunction with the sale or rental of other dwellings, the poster must be displayed from the beginning of construction through the end of the sale or rental process.

Several comments suggested revisions in the language of the poster described in proposed § 72.25. Such suggestions included rewriting the poster in terms of the individual's rights rather than the Act's prohibitions, adding additional prohibitions contained in the Act, emphasizing the nature of penalties for failure to post, and listing the HUD area office instead of the regional office as a location to which to send complaints. The new § 110.25 adopts the suggestion with regard to the area offices in that the poster will provide for insertion of the address of the regional or area office as appropriate. It has been decided that instead of lengthening the content of the poster by adding additional prohibitions, the poster should be made shorter and easier to understand by briefly highlighting the major prohibitions. In addition, the Equal Housing Opportunity logotype and slogan have been inserted at the top of the poster.

A comment by the Federal Home Loan Bank Board (FHLBB) recommended exempting from this regulation any person subject to a regulation of the FHLBB requiring that person to post a poster substantially similar in content to the poster described in HUD's regulation. A similar comment was made by the Board of Governors of the Federal Reserve System with respect to entities subject to supervision by any of the four Federal financial regulatory agencies. The Department will authorize a person subject to the jurisdiction of a Federal financial regulatory agency to utilize a poster prescribed in a regulation by such agency, and approved by the Department, instead of the poster prescribed by HUD. However, all of the other requirements of Part 110 will remain fully applicable regardless of whatever sanctions the regulatory agency prescribes for failure to comply with its regulation. This provision is set forth in § 110.25(b). The requirement, set forth in § 110.10(c), that financial institutions post and maintain a fair housing poster will not be effective until May 1, 1972, in order to allow time for the Federal financial regulatory agencies to issue appropriate regulations.

Proposed § 72.30 stated that a failure to display the poster as required would be

deemed a discriminatory housing practice, i.e., an act unlawful under sections 804, 805, and 806 of title VIII, and prima facie evidence of a violation of these sections, as applicable. There were comments favoring this provision and a comment stating that such a provision was beyond the Department's authority on the ground that title VIII prescribes the specific acts of discrimination which are unlawful. There was also a comment recommending that failure to comply should subject a person to suspension from eligibility for FHA insurance.

The Department believes that it has the authority to require a fair housing poster, and that proposed § 72.30 does not prescribe a new violation not provided for in title VIII. Rather, the section provides an appropriate evidentiary mechanism for assisting in the determination of whether a violation of title VIII has occurred. For purposes of clarity, the provision has been combined with proposed § 72.35—complaints—into a new § 110.30—Effect of failure to display poster—and the combined text shortened. Under § 110.30, when a person claiming to have been injured by a discriminatory housing practice files a complaint pursuant to Part 105—Fair Housing, a failure to display the required poster shall be deemed prima facie evidence of such practice.

The comment with respect to application of additional sanctions is rejected, since such sanctions as well as others are provided in the Affirmative Fair Housing Marketing Regulations published January 5, 1972 (37 F.R. 75), for failure to make the posting required at FHA project sites by § 200.620(f) of that regulation. Although Part 110 is applicable to some persons who are not covered by the Affirmative Fair Housing Marketing regulations, the Department considers that the insertion in Part 110 of the sanctions proposed in the comment is not appropriate.

Accordingly, a new Part 110 is added to Title 24 to read as follows:

Subpart A—Purpose and Definitions

- Sec.
110.1 Purpose.
110.5 Definitions.

Subpart B—Requirements for Display of Posters

- 110.10 Persons subject.
110.15 Location of posters.
110.20 Availability of posters.
110.25 Description of posters.

Subpart C—Enforcement

- 110.30 Effect of failure to display poster.

AUTHORITY: The provisions of this Part 110 are issued under section 7(d) of the Department of Housing and Urban Development Act of 1965 (42 U.S.C. 3535(d)).

Subpart A—Purpose and Definitions

§ 110.1 Purpose.

The regulations set forth in this part contain the procedures established by the Secretary of Housing and Urban Development with respect to the display of a fair housing poster by persons subject to sections 804–806 of the Civil Rights Act of 1968, 42 U.S.C. 3604–3606.

plementary advertising campaign that is directed at other groups, or the use by a developer of racially mixed models to advertise one of the developments and not others.

C. Policy and practices guidelines. The following guidelines are offered as suggested methods of assuring equal opportunity in real estate advertising:

1. *Guidelines for use of logotype, statement, or slogan.* All advertising of residential real estate for sale or rent can contain an Equal Housing Opportunity logotype, statement or slogan as a means of educating the homeseeking public that the property is available to all persons regardless of race, color, religion, or national origin. Table 1 (see appendix) indicates suggested sizes for the use of the logotype. In all space advertising which is less than 4 column inches of a page in size, the Equal Housing Opportunity slogan should be used. The advertisement may be grouped with other advertisements under a caption which states that the housing is available to all without regard to race, color, religion, or national origin. Alternatively, 3-5 percent of the advertisement copy may be devoted to a statement of the equal housing opportunity policy of the owner or agent. Table 2 (see appendix) contains copies of the suggested Equal Housing Opportunity logotype, statement and slogan.

2. *Guidelines for use of human models.* Human models in photographs, drawings, or other graphic techniques may be used to indicate racial inclusiveness. If models are used in display advertising campaigns, the models should be clearly definable as reasonably representing both majority and minority groups in the metropolitan area. Models, if used, should indicate to the general public that the housing is open to all without regard to race, color, religion, or national origin, and is not for the exclusive use of one such group.

3. *Guidelines for notification of Fair Housing Policy.* (a) *Employees.* All publishers of advertisements, advertising agencies, and firms engaged in the sale or rental of real estate should provide a printed copy of their nondiscriminatory policy to each employee and officer.

(b) *Clients.* All publishers of advertisements and advertising agencies should post a copy of their nondiscrimination policy in a conspicuous place wherever persons come to place advertising and should have copies available for all firms and persons using their advertising services.

(c) *Publisher's notice.* All publishers are encouraged to publish at the beginning of the real estate advertising section a notice such as that appearing in Table 3 (see appendix).

Effective date. This statement of policy shall be effective May 1, 1972.

SAMUEL J. SIMMONS,
Assistant Secretary
for Equal Opportunity.

APPENDIX

The following three tables may serve as a guide for the use of the Equal Housing Opportunity logotype, statement, slogan, and publisher's notice for display advertising:

TABLE I

A simple formula can guide the real estate advertiser in using the Equal Housing Opportunity logotype, statement, or slogan. If other logotypes are used in the advertisement, then the Equal Housing Opportunity logotype should be of a size equal to the largest of the other logotypes; if no other logotypes are used, then the following guidelines can be used. In all instances, the type should be bold display face and no smaller than 8 points.

Approximate size of advertisement	Size of Logotype in inches
1/2 page or larger	2 x 2.
1/6 page up to 1/2 page	1 x 1.
4 column inches to 1/6 page	1/2 x 1/2.
Less than 4 column inches	(¹).

¹ Do not use.

TABLE II.—ILLUSTRATIONS OF LOGOTYPE, STATEMENT, AND SLOGAN

Equal Housing Opportunity logotype.



Equal Housing Opportunity statement:
We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the Nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion or national origin.

Equal Housing Opportunity slogan:
"Equal Housing Opportunity."

TABLE III.—ILLUSTRATION OF PUBLISHER'S NOTICE

Publisher's notice:
All real estate advertised in this newspaper is subject to the Federal Fair Housing Act of 1968 which makes it illegal to advertise "any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination."

This newspaper will not knowingly accept any advertising for real estate which is in violation of the law. Our readers are hereby informed that all dwellings advertised in this newspaper are available on an equal opportunity basis.

[FR Doc.72-4983 Filed 3-31-72;8:45 am]

APPENDIX B

37 F.R. 6700

4/1/72

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Equal
Opportunity

[Docket No. R-72-108]

ADVERTISING GUIDELINES FOR FAIR HOUSING

Notice of Statement of Policy

In order to facilitate and promote compliance with the requirements of Title VIII of the Civil Rights Act of 1968, and particularly section 804(c) thereof (42 U.S.C. 3601, 3604(c)) regarding notices, statements or advertisements, the Department of Housing and Urban Development has prepared guidelines to indicate graphic and written references that are appropriate for the preparation, publication, and general use of advertising matter with respect to the sale or rental of a dwelling as defined by the Act.

Notice of a proposed statement of policy was published in the FEDERAL REGISTER on May 21, 1971 (36 F.R. 9266). Comments were received from 26 interested

persons and organizations and consideration has been given to each comment.

Several comments observed that the proposed policy statement was at times unnecessarily limited to the field of newspaper advertising. In response to the comments, the policy statement has been revised in several places to clarify that the guidelines apply to advertisements in all media, including, e.g., television and radio, as well as to advertising agencies and other persons who use advertising.

Several organizations suggested additional catchwords connoting a discriminatory effect for inclusion in section A-3. That section has been expanded to include several additional terms which may have a discriminatory effect when used in a discriminatory context.

In response to other comments, section A-6 has been revised to clarify how directional references could be employed in a discriminatory context with an ethnically, as well as a racially, discriminatory effect. Also, section A-7 has been added relating specifically to designation of religious, ethnic or racial facilities to identify an area or neighborhood.

A number of comments indicated that human models or Equal Opportunity advertisements can and have been used selectively to promote the development of racially exclusive communities. A new section C-4 has been added in order to meet this specific problem. The previous human models section has been clarified by revision and reorganization in the new section C, in light of comments which indicated confusion or uncertainty surrounding the use of human models.

In response to publishers' comments, Table I has been simplified and references to minimum type sizes limited to a recommendation that the type should be bold display face and no smaller than eight points.

A number of organizations suggested the inclusion of a publisher's notice to appear with real estate advertising. A suggested notice has been included as Table III, in lieu of the provision in the proposed guidelines for direct notification to all firms or persons using the advertising services of a publisher. This provision was removed in light of objections that such notification would be unworkable or would impose great hardship since a large volume of real estate advertising is placed by a great number of persons on a nonrecurring basis.

Finally, a number of minor editorial or organizational changes have been made in order to clarify or simplify the advertising guidelines.

Several organizations suggested that the guidelines make specific reference to the roles of other enforcement agencies, including the Department of Justice and local agencies. These comments suggested that the guidelines specify that they do not alter or affect conciliation agreements or court orders obtained by these agencies, as well as by the Department. Such a disclaimer appears to be unnecessary, since there is nothing in the guidelines to indicate an intent to

alter or affect agreements or orders obtained by the Department and other agencies.

This document is issued pursuant to section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

The statement of Policy reads as follows:

PUBLICATION GUIDELINES FOR COMPLIANCE WITH TITLE VIII OF THE CIVIL RIGHTS ACT OF 1968

POLICY STATEMENT

Section 804(c) of title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3604(c), makes it unlawful to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling (any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereof of any such building, structure, or portion thereof) that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation or discrimination.

These advertising guidelines are being issued for the purpose of assisting all advertising media, advertising agencies, and all other persons who use advertising to make, print, or publish or cause to be made, printed, or published any classified or display advertisement with respect to the sale or rental of a dwelling by the owner or his agent, in compliance with the requirements of title VIII.

Conformance with these guidelines will be considered in evaluating compliance with title VIII in connection with investigations by the Assistant Secretary of advertising practices and policies under the title.

A. *The use of words, phrases, sentences and visual aids which have a discriminatory effect.* The following words, phrases, symbols, and forms typify those most often used in residential real estate advertising to convey either overt or tacit discriminatory intent. Their use should therefore be avoided in order to eliminate their discriminatory effect. In considering a complaint under title VIII, the Assistant Secretary will normally consider the use of these and comparable words, phrases, symbols, and forms to indicate possible violation of the title and to establish a need for seeking resolution of the complaint, if it is apparent from the context of the usage that discrimination within the meaning of the Title is likely to result.

1. *Words descriptive of dwelling, landlord, and tenant.* White private home, Colored home, Jewish home.

2. *Words indicative of race, color, religion, or national origin.* Negro, Hispano, Mexican, Indian, Oriental, Black, White, WASP, Hebrew, Irish, Italian, European, etc.

3. *Catch words.* Restricted, ghetto, disadvantaged. Also, words such as private, integrated, traditional, "board approval" or "membership approved" if used in a discriminatory context.

4. *Symbols or logotypes.* Symbols or logotypes which imply or suggest race, color, religion, or national origin.

5. *Colloquialisms.* Locally accepted words or phrases which imply or suggest race, color, religion, or national origin.

6. *Directions to the real estate for sale or rent (use of maps or written instructions).* References to real estate location made in terms of racially or ethnically significant landmarks such as an existing Black de-

velopment (signal to Blacks) or an existing development known for its exclusion of minorities (signal to Whites). Specific directions given from a racially or ethnically significant area.

7. *Area (location) description.* Use of religious, ethnic, or racial facilities to describe an area, neighborhood, or location.

B. *Selective use of advertising media or content with discriminatory effect.* The selective use of advertising in various media and with respect to various housing developments or sites can lead to discriminatory results and may indicate a violation of title VIII.

1. *Selective geographic impact.* Such selective use may involve the strategic placement of billboards, brochure advertisements distributed within a limited geographic area by hand or in the mail, or advertising in particular geographic coverage editions of major metropolitan newspapers, or in local newspapers which are mainly advertising vehicles for reaching a particular segment of the community, or in displays or announcements only in selected sales offices.

2. *Selective use of equal opportunity slogan or logo.* Such selective use may involve using the equal opportunity slogan or logo in advertising reaching some geographic areas, but not others, or with respect to some properties but not others.

3. *Selective use of human models.* Such selective advertising may also involve the use of human models primarily in media that cater to one racial or ethnic segment of the population that is not balanced by a com-

§ 110.5 Definitions.

(a) "Department" means the Department of Housing and Urban Development.

(b) "Discriminatory housing practice" means an act that is unlawful under section 804, 805, or 806 of title VIII.

(c) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(d) "Family" includes a single individual.

(e) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

(f) "Secretary" means the Secretary of Housing and Urban Development.

(g) "Fair housing poster" means the poster prescribed by the Secretary for display by persons subject to sections 804-806 of the Civil Rights Act of 1968.

(h) "The Act" means title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601 et seq.

(i) "Person in the business of selling or renting dwellings" means a person as defined in section 803(c) of the Act.

Subpart E—Requirements for Display of Posters

§ 110.10 Persons subject.

(a) Except to the extent that paragraph (b) of this section applies, all persons subject to section 804 of the Act, Discrimination in the Sale or Rental of Housing, shall post and maintain a fair housing poster as follows:

(1) With respect to a single-family dwelling (not being offered for sale or rental in conjunction with the sale or rental of other dwellings) offered for sale or rental through a real estate broker, agent, salesman, or person in the business of selling or renting dwellings, such person shall post and maintain a fair housing poster at any place of business where the dwelling is offered for sale or rental.

(2) With respect to all other dwellings covered by the Act:

(i) A fair housing poster shall be posted and maintained at any place of business where the dwelling is offered for sale or rental, and

(ii) A fair housing poster shall be posted and maintained at the dwelling, except that with respect to a single-family dwelling being offered for sale or rental in conjunction with the sale or rental of other dwellings, the fair housing poster may be posted and maintained at the model dwellings instead of at each of the individual dwellings.

(3) With respect to those dwellings to which subparagraph (2) of this paragraph applies, the fair housing poster must be posted at the beginning of construction and maintained throughout the period of construction and sale or rental.

(b) This part shall not require posting and maintaining a fair housing poster:

(i) On vacant land, or

(ii) At any single-family dwelling, unless such dwelling

(a) Is being offered for sale or rental in conjunction with the sale or rental of other dwellings in which circumstances a fair housing poster shall be posted and maintained as specified in paragraph (a) (2) (ii) of this section, or

(b) Is being offered for sale or rental through a real estate broker, agent, salesman, or person in the business of selling or renting dwellings in which circumstances a fair housing poster shall be posted and maintained as specified in paragraph (a) (1) of this section,

(c) All persons subject to section 805 of the Act, Discrimination in the Financing of Housing, shall post and maintain a fair housing poster at all their places of business which participate in the financing of housing.

(d) All persons subject to section 806 of the Act, Discrimination in the Provision of Brokerage Services, shall post and maintain a fair housing poster at all their places of business.

§ 110.15 Location of posters.

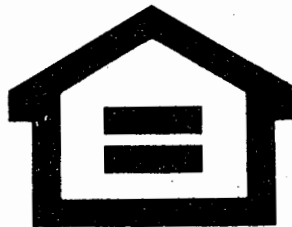
All fair housing posters shall be prominently displayed so as to be readily apparent to all persons seeking housing accommodations or financial assistance or brokerage services in connection therewith as contemplated by sections 804-806 of the Act.

§ 110.20 Availability of posters.

All persons subject to this part may obtain fair housing posters from the Department's regional and area offices. A facsimile may be used if the poster and the lettering are equivalent in size and legibility to the poster available from the Department.

§ 110.25 Description of posters.

(a) The fair housing poster shall be 11 inches by 14 inches and shall bear the following legend:



**EQUAL HOUSING
OPPORTUNITY**

We Do Business in Accordance With the
Federal Fair Housing Law

(Title VIII of the Civil Rights Act of 1968)

IT IS ILLEGAL

TO DISCRIMINATE AGAINST

ANY PERSON BECAUSE OF RACE,

COLOR, RELIGION, OR NATIONAL ORIGIN

- In the sale or rental of housing or residential lots.
- In advertising the sale or rental of housing.

- In the financing of housing.
- In the provision of real estate brokerage services.
- Blockbusting is also illegal.

Anyone who feels he has been discriminated against should send a complaint to:

U.S. Department of Housing and Urban Development, Assistant Secretary for Equal Opportunity, Washington, D.C. 20410

or
HUD Region or

[Area Office stamp]

(b) The Assistant Secretary for Equal Opportunity may grant a waiver permitting the substitution of a poster prescribed by a Federal financial regulatory agency for the fair housing poster described in paragraph (a) of this section. While such waiver remains in effect, compliance with the posting requirements of such regulatory agency shall be deemed compliance with the posting requirements of this part. Such waiver shall not affect the applicability of all other provisions of this part.

Subpart C—Enforcement

§ 110.30 Effect of failure to display poster.

Any person who claims to have been injured by a discriminatory housing practice may file a complaint with the Secretary pursuant to Part 105 of this chapter. A failure to display the fair housing poster as required by this part shall be deemed prima facie evidence of a discriminatory housing practice.

Effective date. This part shall be effective February 25, 1972, except for § 110.10(c) which shall be effective May 1, 1972.

SAMUEL J. SIMMONS,
Assistant Secretary
for Equal Opportunity.

[FR Doc.72-2262 Filed 2-15-72;8:45 am]

APPENDIX C

TRUMP MANAGEMENT, INC.

DATE: _____

RE: Rental Analysis Report

THE BREAKDOWN OF PERSONS BY RACE MAKING INQUIRY IN PERSON
ABOUT THE TERMS AND AVAILABILITY OF APARTMENTS

FOR THE PERIOD OF _____ TO _____

AT _____ APARTMENTS

	WHITE	BLACK	SPANISH	OTHER	TOTAL
MADE INQUIRY					
WERE OFFERED AN APPLICATION					
FILLED OUT AN APPLICATION					
SUBMITTED DEPOSIT WITH APPLICATION					
APPLICATIONS WITHDRAWN BEFORE PROCESSING					
APPLICATION ACCEPTED					
APPLICATIONS WITHDRAWN AFTER PROCESSING					
APPLICATIONS REJECTED					
APPLICATIONS PENDING END OF PERIOD					

APPENDIX D

APPLICATIONS FOR TENANCY
AT APARTMENTS

NAME* ADDRESS, RACE	HOME & BUSINESS PHONES	DATE OF INQUIRY	DATE OF APPLICA- TION	APPLI- CANT'S WEEKLY INCOME	SIZE, TYPE OF APT. DESIRED (Brs., Fur- nished)	MONTHLY RENTAL RATE	DESIRED DATE OF OCCUPANCY	DEPOSIT REC'D AND DATE	IF REJECTED, REASON AND DATE NOTIFIED	IF ACCEPTED, DATE NOTIFIED	NAME OF EMPLOYEE ACTING ON APPLICATION

If two or more single persons are applying for one apartment, please so indicate.

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 TRUMP MANAGEMENT, INC.,)
)
 Defendant.)
 _____)

CIVIL ACTION
NO. 73 C 1520

FILED
U.S. DISTRICT COURT E.D. N.Y.
OCT 29 1975 ★

TIME A.M.
P.M.

SUPPLEMENTAL
ORDER

M' FILMED

On the application of the plaintiff, the United States of America, and after conference with the Court on September 24, 1975, it is hereby ordered that Part V(A)(2) of the Consent Order in this action filed on June 10, 1975, is hereby amended as follows:

(a) Occupancy

Not more than two (2) persons in a one-bedroom apartment. For a two-bedroom apartment defendant shall, in a uniform manner, adhere to its past practices with respect to occupancy.

No applicant shall be denied tenancy solely on the grounds that he or she has children.

Brooklyn, New York
ORDERED this 28th day of October, 1975.

Edward R. Neaher
EDWARD R. NEAHER
United States District Judge

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
U.S. DISTRICT COURT ED. NY
NOV 6 1975

UNITED STATES OF AMERICA

TIME AM.....
P.M.....

- against -

: 73 C 1529

FRED C. TRUMP, et al.,

:

Defendants.

:

U. S. Court House
Brooklyn, New York
June 10, 1975
10:00 A. M.

B e f o r e :

HON. EDWARD R. NEAHER,

U. S. D. J.

BURTON SULZER
OFFICIAL COURT REPORTER

73

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A p p e a r a n c e s :

DAVID G. TRAGER, ESQ.,
United States Attorney for the
Eastern District of New York

By: HENRY BRACHTL, ESQ.,
and
MS. DONNA GOLDSTEIN,
Assistant U.S. Attorneys

ROY COHN, ESQ.,
Attorney for Defendant

Also Present:

FRED TRUMP
DONALD TRUMP
IRVING ESKANAZI, ESQ.

1
2 THE CLERK: Civil hearing, United States versus
3 Fred Trump, et al.

4 THE COURT: I must say, Mr. Cohn, that this case
5 seems to be plagued with unnecessary problems, and I
6 think the time has come when we have to bite the
7 bullet.

8 MR. COHN: We have everybody in court, your
9 Honor. Would you like to hear from them one by one?

10 THE COURT: Yes.

11 MR. COHN: With his Honor's permission, Fred,
12 could you tell Judge Neaher -- you have the final docu-
13 ment that was proposed at the end of last week, you
14 have read that, and I believe you have a couple of
15 general observations that you would like personally to
16 give to Judge Neaher in view of the fact the Government
17 brought on this application this morning, rather than
18 giving us the opportunity to go over this -- your Honor,
19 if we could --

20 MS. GOLDSTEIN: If I may, I have to object, your
21 Honor, to the tenor of this.

22 THE COURT: I don't think this procedure is in
23 order. If Mr. Trump wants to say something to the
24 Court, he can take the stand and be sworn and give his
25 statement under oath.

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MR. COHN: That would be fine, your Honor.

THE COURT: But this is a government motion and I assume the Government wants to be heard.

I will give Mr. Trump -- I will give you an opportunity of course to be heard. No one is going to go away from here feeling he hasn't been heard. But as I say, my own knowledge of the history of this case leaves me in a state of puzzlement because I understood from all the papers that had heretofore been submitted that there had been a memorandum of understanding that had been executed by all the parties, and -- that is so, isn't it?

MR. COHN: The memorandum of understanding, your Honor, was not a 20-page decree. It recited some principles and then provided in the event it could not be reduced to decretal form that was satisfactory to both sides, we then were back where we were.

We have gotten the opposite direction, we have gotten to the point where we are like 99.99 per cent finished, and I think unfortunately it is just a question of a little bit of lack of patience such as last Thursday which stops us from getting there 100 per cent.

We have a document which is very close to a final

1 document. It is an important thing to everybody con-
2 cerned, and it is not the kind of thing you can just
3 shove down somebody's throat.

4 They have come very, very close -- all that we
5 are apart on at this point is minor language problems
6 that if I could have gone over this with Fred Trump
7 and Donald Trump in these couple of days we probably
8 would have solved those as well as we have solved
9 everything else.

10 But this motion has precipitated into here and
11 we are very glad to have this forum because everybody
12 is here -- I have nothing to add on the motion.

13 I submitted an affidavit explaining our position
14 on it, and I assume your Honor does not want either
15 side to repeat what we have already said in our papers.
16 So we are ready. We have everybody here and if we can
17 solve those final few problems we have got a decree.

18 THE COURT: You say you submitted an affidavit?

19 MR. COHN: Yes, your Honor, yesterday.

20 THE COURT: I don't recall seeing it.

21 MR. COHN: It was sent out to the clerk's office
22 yesterday afternoon.

23 THE COURT: You say in this affidavit that a
24 date convenient to the Court be fixed for the signing
25 of the decree by the parties and the acceptance thereof

1 by the Court, which seems to suggest to me that the
2 decree is now in form to be signed.

3 MR. COHN: Your Honor, frankly, it was not in
4 form to be signed -- there are some minor language
5 changes, which are very minor; for example, one point
6 which Mr. Fred Trump is going to make to your Honor,
7 which I think the Government inserted inadvertently,
8 would have required children of opposite sex to occupy
9 a small bedroom after they had passed an age that would
10 be permissible from any standpoint, and a couple of
11 little things like that.

12 If we had been able to work these things out
13 after we reviewed it --

14 THE COURT: May I have a copy of the decree.

15 MR. GOLDSTEIN: The most recent decree, your
16 Honor?

17 MR. F. TRUMP: Off the record, Judge, we can
18 sign this this morning. You call the shots, we change
19 them, initial it and sign it. We want to get through
20 with this.

21 THE COURT: I am sure the Government does, too.

22 MS. GOLDSTEIN: If I may take a few minutes of
23 your time, your Honor --

24 THE COURT: Let me hear from the young lady and
25 perhaps that will expedite matters.

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MS. GOLDSTEIN: We have --

THE COURT: I have read your application. I understand your feelings in the matter.

MS. GOLDSTEIN: Our concern is as happened many times before that a recitation of the facts that have come heretofore in this case is often not as we have understood them, and only so that the Court may have what we would think would be a better understanding of what has happened in this case, I would state that the memorandum of understanding clearly set out the provisions to be contained in the decree.

We believe what was left open was simply to memorialize --

THE COURT: Was a copy of that, by the way, submitted in the papers?

MS. GOLDSTEIN: I have an additional copy, if you would like to see it.

THE COURT: You have a copy?

MS. GOLDSTEIN: Attached to the memorandum is the consent decree initially submitted by the plaintiffs. The memorandum makes certain revisions in the consent decree and states that all other provisions are to be contained in their entirety in the final decree.

Very little, if anything, is left open in the memorandum of understanding, and essentially the next

1 decree was to memorialize the settlement, all the terms
2 of which had been agreed upon.

3 THE COURT: This document?

4 MS. GOLDSTEIN: That is about the fifth one.

5 THE COURT: You are familiar with this one?

6 MR. COHN: That is --

7 MS. GOLDSTEIN: That was submitted last week.

8 MR. COHN: That was submitted by the Government
9 on Thursday, your Honor, after the conference we had
10 in this courtroom on Tuesday. That is the final.

11 THE COURT: Which left me with the impression
12 that everything had been settled, based on your state-
13 ment --

14 MR. COHN: I think it was --

15 THE COURT: -- and Miss Goldstein's.

16 MS. GOLDSTEIN: Mr. Cohn represents that minor
17 things have always been left open, and they are merely
18 minor revisions that we are talking about.

19 Since the signing of the memorandum, not minor
20 revisions but defendants have attempted to renegotiate
21 in toto large portions of the consent decree, entire
22 provisions which have been agreed to in the first
23 memorandum.

24 Initially, the United States, while hesitant --
25 and I believe the correspondence between the parties in

1 this matter will bear that out -- very hesitant to re-
2 negotiate, in order to proceed to execution we have
3 changed various portions.

4 We have been brought to the well so many times
5 in this last five months that promises now that we are
6 about to be able to drink the final drink leaves me a
7 little skeptical, and that is why we are here today,
8 to ask the Court's assistance for close supervision so
9 that if the Court will not today enter this decree
10 summarily, then for close supervision so that it may
11 become a reality in the near future.

12 THE COURT: I am going to assure you you are going
13 to have my undivided attention to the accomplishment of
14 this decree.

15 What I would like to get down to is this, as I
16 understand it we have here this memorandum of under-
17 standing, which I do recognize is to some extent a
18 statement of principles, although I suppose certain
19 specific provisions are made --

20 MS. GOLDSTEIN: Specific provisions are contained,
21 because it essentially adopts the attached consent
22 decree.

23 THE COURT: All right. But now we have some-
24 thing which presumably is final or so close to the edge
25 that --

1 MR. F. TRUMP: One hour, Judge, we will be out
2 of here.

3 THE COURT: What are we talking about?

4 MR. COHN: In other words, you want to address
5 yourself to the final document that they produced on
6 Thursday?

7 THE COURT: I want to address myself to the final
8 document to find out what point of difference there is.

9 MR. COHN: Do you want Mr. Fred Trump to testify?

10 THE COURT: Let me see for a moment. We will
11 hold that. Maybe we can accomplish this more quickly
12 than I had thought.

13 Has anyone got a marked copy of this consent
14 order?

15 MR. COHN: We have a memorandum, your Honor, with
16 the language changes we would want.

17 THE COURT: Have you seen that?

18 MS. GOLDSTEIN: We have not seen that. Mr. Cohn
19 was not --

20 THE COURT: Give one to Ms. Goldstein and one to
21 me and maybe one to Mr. Brachtl.

22 Are you going to be a participant here?

23 MR. BRACHTL: Yes, your Honor.

24 THE COURT: It might be useful.

25 Let's turn to page 7-A, item one.

1 MR. COHN: That, your Honor, on page 7-A-1 would
2 refer to -- under A, the third line, "Apartments owned
3 or managed," and it would say "Apartments owned or
4 managed..." -- I suppose it would say "New York City
5 properties owned or managed by the defendant, exclusive
6 of Tysen's Park and Trump Village."

7 The reason for that is, of course, Trump Village
8 is a Mitchel-Llama project, and I think -- Tysen's is
9 a federal project and I think we are all agreed that
10 the same effect is accomplished with reference to them
11 without requiring additional record keeping and things
12 like that.

13 MS. GOLDSTEIN: We have excluded Tysen's and
14 Trump Village from particular provisions which would
15 affect their obligations under the federal statutes
16 that they were constructed under, such as tenancy
17 requirements, objective criteria for accepting tenants
18 and things like that.

19 These provisions they are talking about are
20 simply provisions to notify the community of vacancies,
21 and I see no reason why two particular projects, while
22 federally funded and state project, should not be in-
23 cluded in the provisions that notify the community as
24 to vacancies.

25 These were, previous to coming in today -- all

1 these had been agreed upon on numerous occasions.

2 THE COURT: May I inquire, is Tysen's Park and
3 Trump Village managed by Trump?

4 MS. GOLDSTEIN: Owned and managed.

5 MR. COHN: Yes. These are the two buildings,
6 your Honor, one is under state supervision under the
7 Mitchel-Llama Act; Tysen's is already under federal
8 supervision.

9 I think we had all agreed that it was unnecessary
10 to have them in this.

11 Now, apparently what Miss Goldstein --

12 MS. GOLDSTEIN: One project does have a racial
13 composition, which is virtually white and would be an
14 important project to include under the decree.

15 We might go through these. I don't want to hold
16 up settlement on minor points, you know, but you re-
17 negotiate and renegotiate so many times.

18 MR. FRED TRUMP: Why don't you exclude them,
19 Donna. We are giving you a lot of buildings. It's
20 burdensome so far as the money is concerned, also.

21 MR. COHN: Mr. Fred Trump wanted to tell your
22 Honor, on 23 points which the Government made here,
23 we have given almost totally, and some of them are
24 very much against everyone's better judgment, in an
25 attempt to get this done.

1 Mr. Trump himself and Mr. Eskanazi, an attorney
2 who has been very constructive working with us, have
3 gone to Washington rather than have the folks come up
4 here to try and hammer this thing out.

5 THE COURT: Miss Goldstein, is there anything
6 about the status of those two, Tysen's Park and Trump
7 Village, which would insure that the availability of
8 nondiscriminatory housing message would come through
9 other agencies or anything of that sort?

10 MS. GOLDSTEIN: There presently is not. There
11 are no requirements that I am aware of and no civil
12 rights enforcement by the state and federal government
13 with respect to the operation of these kinds of projects.

14 We are talking about two very different kinds
15 of projects. Tysen's Park is in Staten Island and
16 while not large it does have a significant minority
17 population, as we understand it.

18 MR. F. TRUMP: Over 30 per cent.

19 MS. GOLDSTEIN: I had understood it to be approxi-
20 mately eight or ten per cent. But unlike what we have
21 alleged to exist at other Trump properties.

22 Trump Village, however, is very representative
23 of what we allege to be the reputation of the Trump
24 properties in the community, and of the racial composi-
25 tion of the Trump properties. It is an exclusively

1 or almost exclusively white project. It is a very
2 desirable project.

3 We have agreed to exclude it from certain pro-
4 visions which would be offensive to the regulations
5 that it was set up under. They have to give certain
6 preferences in tenant selections to veterans and other
7 groups because it is a state Mitchel-Llama project,
8 and they have accepted in the decree provisions that
9 would interfere with that; however, it is a very
10 desirable project.

11 THE COURT: Would there be created some false
12 impression about their availability in the light of the
13 exceptions you have later agreed to?

14 In other words, if, on the one hand, you say --
15 I realize this is simply to notify the Open Housing
16 Center that these are available to all qualified persons,
17 and so forth --

18 MS. GOLDSTEIN: No, your Honor, I don't think
19 that would open.

20 THE COURT: That somebody would then go to Tysen's
21 Park or Trump Village and say "We have been told some-
22 thing" and then --

23 MS. GOLDSTEIN: That would simply place these
24 people in the same position that thousands of New Yorkers
25 are in.

1 Trump Village does have a waiting list.

2 MR. ESKANAZI: My name is Irving Eskanazi, your
3 Honor. This would probably clear up the matter.

4 As far as Trump Village is concerned, there has
5 not been, for a good number of years, any advertising
6 whatsoever because there is an extensive waiting list
7 which is supervised by the State Department, as far as
8 when the people first entered their names -- they are
9 kept in the proper order, et cetera.

10 Therefore, listing vacancies with Open Housing
11 would not accomplish anything but merely give the people
12 who inquired at Open Housing the opportunity of joining
13 the waiting list.

14 MS. GOLDSTEIN: Then all that we would be doing
15 is, the decree requires only to provide vacancies that
16 exist.

17 Excepting Trump Village under the circumstances
18 that have just been discussed would really serve no
19 purpose. If there is no vacancy then they shall not
20 be included. Advertising requires them, that when they
21 do advertise vacancies they advertise in a certain
22 manner. To include it blanketly from the decree would
23 give a message to all those that read it that Trump
24 Village does not subscribe to the same equal opportunity
25 requirements as the rest of the Trump properties, and

1 that is misleading.

2 MR. COHN: We are not talking to Judge Neaher's
3 point, which seems to be very cogent.

4 You have agreed to exclude these two from what
5 would be meaningful provisions of the decree that would
6 apply to other buildings because we all recognize that
7 it is under state and federal regulation already.

8 Having excluded them, if you stick them in back
9 at another point and have these notices sent to Open
10 Housing, it will in effect mislead --

11 THE COURT: What would be a specimen of one of
12 these special provisions respecting these two?

13 MS. GOLDSTEIN: Footnote 3 on page 10.

14 There is a provision in the decree whereby for
15 buildings with insignificant numbers of black and
16 Spanish tenants that a certain -- the Open Housing
17 Center shall be given a three-day jump to fill an
18 apartment. Because Trump Village has to give prefer-
19 ence to certain tenants and does have a long waiting
20 list, we have excluded it from that provision.

21 We have excluded Tysen's Park on page --

22 THE COURT: Let me ask this, where does it say
23 they are excluded?

24 MS. GOLDSTEIN: Third footnote. This provision
25 shall not apply to Trump Village. On page 12, footnote

1 one, the part where it goes through the objective rental
2 criterion standards for determining the eligibility of
3 tenants.

4 Footnote one excludes Tysen's Park because it is
5 subject to other federal regulations with respect to
6 tenant eligibility. Those are specific exclusions.

7 We did not wish to make a blanket exclusion that
8 would appear to the public to be taking large projects
9 outside of the requirements of the equal housing --
10 the equal housing opportunity requirements that the
11 defendants were agreeing to.

12 I don't see how it serves any function on proper-
13 ties that --

14 MR. COHN: If we are dealing with a cosmetic
15 problem, how about this: Instead of mentioning them
16 by name, saying apartments owned or managed by the
17 defendant, parentheses, with the exceptions noted in
18 the footnotes on page 10 and page 12. If they are
19 worried about --

20 MS. GOLDSTEIN: Someone who is going to read it
21 is going to read it wrong.

22 MR. COHN: What prospective person wants to go
23 and rent an apartment for \$175 a month and is going
24 to come and read a 30-page consent decree?

25 MS. GOLDSTEIN: We don't want to be unreasonable,

1 your Honor, but --

2 MR. F. TRUMP: We have discussed this for days
3 and days.

4 MS. GOLDSTEIN: We want a decree to be entered
5 and we don't to be unreasonable. I suppose that partly
6 one of the reasons that I have retained the position I
7 have today is that provisions have been -- we have
8 spent days upon days renegotiating this decree and each
9 time we sit down new provisions need to be changed.

10 THE COURT: Suppose, if one can be very neutral,
11 I understand your point and I think there is merit to
12 the Government's point here.

13 Suppose one were simply to say, without regard
14 to race, color, as hereinafter provided. You don't
15 mention -- you understand?

16 MS. GOLDSTEIN: I am not following you.

17 THE COURT: That apartments owned or managed by
18 the defendant are available to all qualified persons,
19 without regard to race, color, religion, sex or national
20 origin, as hereinafter provided.

21 MS. GOLDSTEIN: The only problem is the defendants
22 are under an injunction, a general injunction that all
23 their properties, regardless of the type of properties
24 they are, and whether they are excluded from affirmative
25 provisions -- they are under a general injunction to make

1 apartments available to all qualified persons.

2 THE COURT: I did not say they were not. I just
3 said that they are available as hereinafter provided.

4 Do you understand?

5 Then whatever the difference is with respect to
6 Trump or Tysen's will be governed by the more particular
7 provisions hereinafter provided, if that makes the diff-
8 erence.

9 Do you understand?

10 MR. COHN: It seems like a perfect solution.

11 MS. GOLDSTEIN: It appears to me that putting
12 that in would make it appear that Trump Village and
13 Tysen's were not included in the general injunctive
14 provisions which require them to make it available to
15 all -- I may not understand you, but it seems to be
16 a little misleading in terms of --

17 THE COURT: Well, in 10, what do you say, you
18 say under 3 --

19 MS. GOLDSTEIN: We don't --

20 THE COURT: You say this provision, which is the
21 triple asterisk, shall not apply to Trump Village, but
22 which provision do you mean?

23 MS. GOLDSTEIN: The entire provision B that
24 requires them to hold a property off the market for
25 three days. But not the provision that requires them
to --

1 THE COURT: All right. So my point is, as here-
2 inafter provided simply means that if someone goes to
3 Tysen's Village then you turn not to the first sentence,
4 which is the general blanket cosmetic approach, which
5 I am attempting to preserve for you, and at the same
6 time to satisfy these gentlemen that they are not in
7 some way losing the benefit of whatever is provided
8 more specifically in 10 and 12. I don't want to over-
9 bear you on that. I am simply a mediator here attempting
10 to satisfy both sides because personally I do think it
11 is important that you should not say on page 7 that
12 except for Trump Village and Tysen's Park everything
13 else is available.

14 I am simply saying all are available as herein-
15 after provided.

16 MS. GOLDSTEIN: That's fine, your Honor.

17 THE COURT: Do you understand my point?

18 MS. GOLDSTEIN: That's fine.

19 MR. COHN: On the same page --

20 THE COURT: Where would we put that?

21 MR. COHN: After the words "national origin."

22 THE COURT: "...are available as hereinafter
23 provided to all qualified persons, or are available to
24 all as hereinafter..." --

25 MS. GOLDSTEIN: Without regard to race, color,

1 religion or national origin, as hereinafter provided.

2 THE COURT: May I mark this copy?

3 MS. GOLDSTEIN: Yes, you may, your Honor.

4 THE COURT: The mechanical details should wait.
5 I know they are a problem but I am trying to say to
6 you it might be that the Government, having recognized
7 the special exceptions will apply, it may be realized
8 also in some difference in treatment with respect to
9 record keeping -- I would expect that to be so, I don't
10 know, and that is what we are talking about here. Do
11 you understand?

12 MR. F. TRUMP: We were thinking they would be
13 excluded because they are under restrictive -- highly
14 restricted now. We don't pick the people.

15 THE COURT: I don't think either from your
16 standpoint, and certainly not from the Government's,
17 that it would look well for you to be attempting to,
18 let us say -- I don't know much about Tysen's Park,
19 but Trump Village, being a large and prominent --

20 MR. F. TRUMP: How many units in Trump Village,
21 Donna? They are co-ops. We have nothing to do with
22 3,000 families.

23 THE COURT: It is partly co-op?

24 MR. F. TRUMP: Three thousand were co-op and 880
25 are rental.

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THE COURT: It is all Trump Village?

MS. GOLDSTEIN: 880 apartments are a significant number of apartments to New Yorkers.

MR. F. TRUMP: On those two buildings, forget about it, the State takes care of everything. They select --

MR. COHN: What Judge Neaher is saying, nobody is disagreeing with any of that, we are saying by calling special attention to them there in the opening sentence instead of on pages 10 and 12, where the exceptions are noted, you might be creating --

THE COURT: The details -- if you are interested in conserving expenditure of funds, which is understandable, if that is a major point here, I don't believe the Government would be unreasonable when you are not called upon to deal with the vast majority of housing that is involved here.

MR. COHN: If they are, I assume you are going to retain jurisdiction at the foot of the decree and we will come to you?

THE COURT: If any difficulties come up we will try to iron them out.

MR. COHN: The next point, we agreed to forward the statement of vacancies to the Open Housing Center. That was all right. We agreed to that after a lot of

1 discussion.

2 Then they go ahead and put in language saying
3 the Open Housing Center, having received it, may at its
4 own discretion forward copies of the above-mentioned
5 letter and weekly list of vacancies to any and all
6 persons or organizations with an interest in promoting
7 equal housing opportunities.

8 What permeates the whole decree is a limitation
9 as to numbers of groups, of do-good groups which are
10 to be involved in this process, because we all agree,
11 without impugning their motives in any way, it leads
12 to an enormous volume of confusion, of extra work for
13 superintendents, the office in processing applications,
14 and we have selected the Open Housing Center, the Urban
15 League, we have agreed to advertise not in every paper
16 but in certain selected papers, on a sort of rigid basis,
17 which both sides have agreed to.

18 We don't mind notifying Open Housing, but if there
19 is an indiscriminate right to flood every organization
20 with copies of lists of our vacancies, it is just going
21 to not accomplish anything but a total amount of con-
22 fusion.

23 First of all, really chaos, and by the time they
24 get our -- our experience has been, as I understand,
25 because we have done some of this before, by the time

1 they get through distributing it has all become obsolete
2 anyway: Places are rented, and the superintendents,
3 the clerical help go crazy.

4 So we want some kind of a break on however this
5 is to flood forward once we comply with the provision
6 they want, which is to notify the Open Housing Center,
7 and not have something in here which says at its own
8 discretion forward copies to any and all persons and
9 organizations with an interest in promoting equal housing
10 opportunities.

11 I think that is what that is about.

12 MS. GOLDSTEIN: Just to put this in perspective
13 and get a little history of that paragraph, our initial
14 memorandum of understanding stated that there would be
15 approximately three or four groups to which this inform-
16 ation would be sent.

17 After the decree had been entered, and when Mr.
18 Eskanazi and Mr. Trump, in April or May, I don't remember
19 when, came down to finish off the consent decree, and I
20 spent the entire day with Mr. Eskanazi, it was agreed by
21 Mr. Eskanazi, and I believe this was his suggestion, that
22 rather than have the paper work of sending them constantly
23 to four groups, why not send them to Open Housing Center
24 and let them distribute it.

25 So at his suggestion, and to eliminate the need to

1 send them to more than one group, this was put in.

2 If the defendants wish to go back to three
3 specific groups to send this to, we will be more than
4 happy to make the provision. This has gone through
5 much negotiation since then and this has not been
6 brought up as a sticky-wit, so I am a little confused
7 at this late stage of the game to have them now want
8 to change it.

9 THE COURT: You are concerned because of the
10 gradual broadcast of these vacancies, if they are, and
11 the lapse in time, that you will be flooded with people
12 coming to the apartments which are no longer available;
13 is that right?

14 MR. COHN: That is one concern.

15 The second concern is this: We think the noti-
16 fication to the Open Housing Center does it. They see
17 the people directly. That accomplishes it and why do
18 we have to have a proliferation now to give a bow to
19 three other or five other or ten other -- the Open
20 Housing Center, this is its function.

21 THE COURT: In addition to the Open Housing, what
22 would have been the other groups you had in mind, what
23 would they add to it?

24 MS. GOLDSTEIN: We were -- there are a number of
25 fair housing groups in the area, in the metropolitan

1 area: The Human Rights Commission is a possible source.

2 Various other groups have housing -- we never
3 sat down and worked out the specific groups. There are
4 other groups similar to the Open Housing Center. Open
5 Housing Center is one operation, has one small office
6 and a very limited staff.

7 If the Open Housing Center initially, because
8 they don't have the resources to have the impact on
9 the community to distribute this literature, does --

10 THE COURT: Are there not certain advertising
11 provisions that do also come into play?

12 MS. GOLDSTEIN: That is correct, your Honor.

#3 13 THE COURT: I can understand your position here
14 but, on the other hand, as a practical matter, I can
15 also understand that if these things are dispatched
16 over the city it will generate a lot of activity for
17 the management dealing with people who get there long
18 after the apartment has been rented.

19 I can see what it really means is a long flow
20 of inquiry, mail and so forth, which may not really
21 accomplish the Government's purpose. It may even indeed
22 cause people to expend monies to travel to these places
23 and everything else, all in vain.

24 On the other hand, isn't it enough to, with the
25 other advertising provisions and so forth, to eliminate

1 this sort of broadcast --

2 Is this a standard provision, by the way, or
3 was this tailored --

4 MS. GOLDSTEIN: Notification to groups?

5 THE COURT: Yes.

6 MS. GOLDSTEIN: There are two kinds of notifica-
7 tion in here: One is absolutely standard; the other
8 one is done frequently, depending on the size of the
9 operation, the nature of the volume and the need in
10 the community, but it is done frequently. It is not
11 uniform. One of them which notifies the community of
12 the general equal housing opportunities pursuant to
13 this decree, and the terms of the decree, is fairly
14 uniform; otherwise the impact of the decree would
15 significantly be less.

16 THE COURT: This distribution by the Housing --

17 MS. GOLDSTEIN: The term of list of vacancies,
18 this is done in a significant portion of our decrees,
19 but not necessarily in all the decrees.

20 MR. COHN: Unfortunately, your Honor, the ones I
21 have seen do not have them, which is a problem that I
22 encountered. Your Honor put his finger right on it.

23 There are pages of subsequent provisions requir-
24 ing detailed listings, advertising in El Dario,
25 Amsterdam News, so on and so forth.

1 This is more or less general language at the
2 beginning and they selected the Open Housing Center
3 and --

4 THE COURT: Let me ask you, though, as a practical
5 matter --

6 MR. COHN: I have an idea --

7 THE COURT: Once the Open Housing Center gets
8 this information, what is to stop them from dispersing
9 it anyway?

10 MR. COHN: I don't know what is to stop them,
11 but I don't want to encourage them.

12 MS. GOLDSTEIN: That's okay if we take it out.
13 The Open Housing Center can operate at its own discre-
14 tion.

15 MR. COHN: Your Honor, how about the --

16 THE COURT: Remember that one. You won that one.

17 MR. F. TRUMP: They can use their own discretion,
18 she said, which is the same as what is in there. We want
19 exclusively for them --

20 THE COURT: What is coming out?

21 MS. GOLDSTEIN: The last sentence, "The Open
22 Housing Center may at its own discretion..."

23 THE COURT: That's out.

24 MR. F. TRUMP: Thank you, Judge.

25 MR. COHN: The next page -- I don't think there

1 should be any problem with 3-A. Is there?

2 Can we handle the problems with Tysen's and
3 Trump Village?

4 MS. GOLDSTEIN: If Trump Village has no vacancies
5 and they will not be in this, you need to only advertise
6 buildings with vacancies so that that is a pink elephant;
7 it is not going to exist.

8 THE COURT: As I understand it, they will be
9 advertising only if there is a need to advertise.

10 MS. GOLDSTEIN: Pursuant to their present policy.

11 THE COURT: If you do advertise then you conform
12 to this. I don't really see any problem with this at
13 all.

14 MR. COHN: Include in all advertising with refer-
15 ence to New York City buildings -- they are not going
16 to argue about that.

17 MS. GOLDSTEIN: New York City. That includes
18 the five boroughs.

19 MR. COHN: We can deal with that, Judge.

20 Let us talk about Tysen's for a second, if we
21 can.

22 (Counsel confer, off the record.)

23 MR. ESKANAZI: Miss Goldstein mentioned even
24 before that the two buildings are completely different
25 in nature. There is a difference as to the number of

1 minority people living in Tysen's, but even if we take
2 Miss Goldstein's figure and she said ten per cent, one
3 of the -- it happens to be a little higher, but one of
4 the distinctions in the agreement is even if we list
5 with Open Housing, they want us to list and hold for
6 three days --

7 MS. GOLDSTEIN: Only properties with less than
8 ten per cent minority.

9 MR. ESKANAZI: This one meets the criteria.

10 MS. GOLDSTEIN: It will not be included in that
11 provision because it does have a significant population --

12 MR. COHN: They want to know how do we say that
13 it is not included because of that.

14 MS. GOLDSTEIN: That is a different provision.

15 MR. COHN: How do we in this provision -- I think
16 they are viewing this from a standpoint -- they have
17 to be careful because if somebody is generous as you or
18 I -- there might be future problems here as to what that
19 means. I think they want to make sure --

20 MS. GOLDSTEIN: Why should Tysen's be excluded?

21 MR. COHN: Because you have just said Tysen's
22 is in fact excluded now because Tysen's has over the
23 minority percentage, which results in the exclusion.

24 MS. GOLDSTEIN: Tysen's is, by operation of the
25 provision, excluded from provision B on page 10. I made

1 no statement with respect to its inclusion or exclusion
2 from the advertising provisions on page 8.

3 Our understanding was that all properties, all
4 advertising when done would fall within certain regula-
5 tions prescribed by the Department of Housing and Urban
6 Development.

7 MR. COHN: Suppose Tysen had 70 per cent blacks,
8 minority, okay, but they had a vacancy. Under your
9 reading of this, would the advertising --

10 MS. GOLDSTEIN: Under the advertising provision
11 which follows the HUD Guidelines, all advertising, if
12 done -- we are not requiring you to advertise if you
13 have no vacancies, we have not telling you which
14 building to advertise, we are requiring that you follow
15 the advertising procedures you use now and that all
16 advertising, simple three-word statement, "equal
17 housing opportunities," be included, as required by
18 the HUD guidelines.

19 THE COURT: I am having a problem understanding
20 your problem here, I must say, on this one.

21 In other words, as I understand it, if you do
22 advertise either generally or with respect to any
23 particular building, your advertising has to comply
24 with this. But that as I understand it without re-
25 lationship to the question -- for instance, is it

1 likely that you would be advertising for Tysen's, for
2 instance?

3 MR. ESKANAZI: Yes. I think the point is, your
4 Honor, that the premise of this whole hearing supposedly,
5 the whole case is based on the fact that the Government
6 is looking to achieve integration in areas where it does
7 not exist.

8 Now, in Tysen's Park it does exist. It is recog-
9 nized and admitted by Miss Goldstein. It is also a
10 unique project in that it is the only one we own that
11 is supervised by the Federal Government.

12 MR. COHN: That is the footnote on page 12.

13 MR. D. TRUMP: This advertising, while it's, you
14 know -- I imagine it's necessary from the Government's
15 standpoint, is a very expensive thing for us. It is
16 really onerous. Each sentence we put in is going to
17 cost us a lot of money over the period we are supposed
18 to do it.

19 Tysen's Park, where Miss Goldstein does admit
20 there live a large percentage of minorities, while she
21 uses the figure ten per cent, I can attest to the fact
22 that it is maybe in excess of thirty per cent. I don't
23 see why we have to go through the expense of adding
24 these lines to every newspaper where we advertise in
25 the New York Times, the Staten Island Press, or the

1 different papers, because, quite honestly, it is very
2 expensive.

#4 3 MR. F. TRUMP: I have the New York Times today.
4 There are 2,100 ads. We have about ten ads in here,
5 or eight ads.

6 We would have to, after signing this decree, put
7 "equal housing opportunity" underneath each of our ten
8 ads. They are only small ads, like one-inch, twelve
9 lines, ten lines, eight lines, but we would have ten
10 and we would have to put in this ten different places,
11 the 2,100 -- there isn't one other advertiser in the
12 New York Times who does that. I think it is discrimina-
13 tory against us; it is expensive and it makes us appear
14 foolish and we will be the laughing stock of the real
15 estate industry.

16 I think that should be left out altogether.

17 THE COURT: These ads, what do they look like?

18 MR. F. TRUMP: "Equal housing opportunity."

19 MR. COHN: Mr. Trump has now gone on to the next
20 point, which requires on ads of more than eight lines
21 of action print that "equal housing opportunity" be
22 displayed.

23 He is telling your Honor that this is a discrimi-
24 natory provision because if you go through the whole paper
25 you won't find one other builder or developer who is

1 required to do that.

2 MS. GOLDSTEIN: Your Honor, the HUD advertising
3 guidelines, given significant weight by a number of
4 courts in these cases, by practically all courts in
5 these cases, require the use of "equal housing oppor-
6 tunity" and in certain circumstances what is called
7 the equal housing opportunity logos, which is for
8 display ads which the defendants do not use.

9 Papers throughout the country -- if you pick up
10 the Washington Post, if you pick up almost any large
11 city newspaper, the use of "equal housing opportunity"
12 is a frequent occurrence.

13 MR. D. TRUMP: Not for an eight-line ad.

14 MS. GOLDSTEIN: An eight-line ad is not consid-
15 ered in the industry as a small ad.

16 MR. F. TRUMP: We were not convicted. We would
17 win this case if we fought it.

18 THE COURT: Don't be too sure of that.

19 MS. GOLDSTEIN: An eight-line ad is not consid-
20 ered a small ad.

21 In fact, an eight-line ad is considered a signi-
22 ficant size ad. We generally do it in three or more
23 lines, but agreed to increase it to eight lines for the
24 defendants.

25 The Washington Post, the Boston papers, the

1 Philadelphia papers, this would not appear at all un-
2 usual.

3 What the defendants are saying, since no other
4 apartment owners follow the guidelines, we should not
5 be obliged to.

6 Perhaps what they are speaking to is need for
7 greater enforcement by the Civil Rights Division,
8 something that the Civil Rights Division, since it came
9 into this case -- we are very concerned about the fact
10 that the classified advertising in New York City in no
11 case includes this.

12 However, this is a situation where we have
13 alleged that the defendants discriminate, have even
14 engaged in a pattern in practice of continual discrim-
15 ination against blacks in New York City; that they
16 have developed a discriminatory image in the city.

17 We have never entered into in a case of this
18 kind a consent decree without requirements that the
19 HUD guidelines be followed and the defendants have
20 agreed to this on a number of occasions.

21 The first memorandum of understand contained
22 this. The second one -- we have never, and at all times
23 have made it very clear to them that this was an
24 integral part of the decree.

25 Now, at the more than eleventh hour we again are

1 renegotiating what we have indicated was one of the
2 more significant parts of the decree.

3 THE COURT: Let me ask you this, you say in addi-
4 tion to all advertising placed, and so forth, that it
5 shall conform to the practices recommended in the HUD
6 advertising guidelines.

7 MS. GOLDSTEIN: That would be with respect to
8 when a logo would have to be used.

9 THE HUD guideline states that all ads should have
10 equal housing opportunities. We have limited it to
11 eight. With respect to the use of a logo, which the
12 HUD guidelines talks about in terms of display ads
13 which are generally known as ads that are bordered
14 and set off, and then the logo consists of the outline
15 of a house with an equal sign, and it is known in the
16 community as equal housing opportunity logo.

17 With respect to that we just said, in addition,
18 that is additional to the eight-line requirement all
19 other ads will just conform to the guidelines prescribed
20 by the Department of Housing and Urban Development.

21 MR. F. TRUMP: We don't have any display ads.

22 MS. GOLDSTEIN: Fine. We are not requiring
23 you to use them.

24 MR. F. TRUMP: We are the only ones in the New
25 York Times that would have that. I think that is

1 terrible and it certainly is discriminatory.

2 MR. ESKANAZI: To give you an idea of lineage,
3 the publishing business, they classify fourteen lines
4 as equal to an inch, so when we speak of eight lines,
5 we are saying any ad that would be just over a half
6 inch in size or more, which would be requiring that.
7 So if we advertise fourteen buildings, we would have
8 that fourteen times.

9 MR. D. TRUMP: That means fourteen lines, and
10 it is very expensive.

11 MR. COHN: The plain fact, and this is probably --
12 everything looking down our list of problems, this is
13 probably the problem because the others are very, very
14 small. This is a basic one because it is awfully hard
15 to say to people when you pick up the newspapers and
16 go through two thousand ads a day -- we have been doing
17 it for over three months now since this provision was
18 proposed and we have yet to find one -- why them?

19 Because they are cooperating here and taking a
20 consent decree, why should they be singled out for
21 treatment that is harsher and which would put them in
22 a completely unique position, cost them a great deal
23 of money, accomplish next to nothing as a practical
24 result, and just make them the guinea pigs in a way
25 that I can't tell clients it's not discriminatory

1 when they have read probably a total of 300,000 ads and
2 have yet to find one which does what they are being
3 asked to do here.

4 MS. GOLDSTEIN: I have not done a survey the
5 defendants claim they have done, but I have --

6 MR. F. TRUMP: Two thousand ads.

7 THE COURT: I have to take a quick look at the --

8 MS. GOLDSTEIN: I have participated, going on
9 three years, in these decrees, and we have never entered
10 into one that does not contain this.

11 They are not in the same position that the other
12 property owners in that newspaper are in that they have
13 been charged with a serious violation of the Civil
14 Rights Act, which they have agreed to settle by consent.

15 MR. F. TRUMP: There is never an ad in. We
16 have checked it for three months and there is not one.

17 MR. D. TRUMP: We haven't found one in any other
18 paper in New York.

19 MR. COHN: Looking at all this language, as I
20 say, this is the last big problem, and if you look
21 down the list, there just isn't anything, but this is
22 an awfully basic one.

23 If these people, who, as Mr. Trump keeps pointing
24 out, there wasn't a trial, and a consent decree is in
25 the spirit of just that, and I think they have gone so

1 is the most important.

2 We have tried to take a composite here and do
3 something in every regard. If we advertise in the
4 Amsterdam News and El Dario we hardly are advertising
5 something that is in a discriminatory fashion.

6 We are yielding to the Government here and put-
7 ting in ads in minority papers themselves.

8 On top of that, to make us the only people in
9 the history of New York City, when we have gone over
10 300,000 ads and have yet to see this on the part of any
11 other builder or developer, it just seems grossly unfair
12 and discriminatory.

13 MR. BRACHTL: Your Honor, it appears to me from
14 the citation to the HUD regulations that the date of
15 those regulations postdates the Lefrak decree, which is
16 regarded a significant decree in this area, which may
17 explain that difference with respect to that decree.

18 MR. GOLDSTEIN: We have been following these
19 guidelines.

20 MR. BRACHTL: It seems to me that when the purpose
21 of this decree is to assure affirmative action, that
22 advertising really is at the heart of the decree.

23 THE COURT: I can understand that.

24 The only thing that bothers me a little bit was
25 I never thought of advertising in the sense of the tiny

1 far, as you go through this decree, the notifications,
2 the lists of vacancies, it is --

3 MS. GOLDSTEIN: Advertising is the most signifi-
4 cant thing they do. They advertise. They do a great
5 deal of advertising. Their average ad is approximately
6 fourteen or fifteen lines, as has been represented to
7 me.

8 This is the most effective way to reach the public.
9 A person who is looking for an apartment in New York
10 goes to the newspapers. Open Housing Center can do
11 just so much. They have limited clientele and very,
12 very limited resources. We are not dealing with a large
13 operation.

14 As I say, there has been not one decree entered
15 in a Title 8 suit by my office that has -- brought by
16 my office -- that has not contained provision following
17 the HUD guidelines and requiring the use of equal
18 opportunity --

19 MR. F. TRUMP: Lefrak does not do it.

20 MR. COHN: It just isn't there. Nobody has this.

21 Judge, every point we talk about, about notifi-
22 cation, Miss Goldstein says this is the most important.
23 When we leave this she is going to tell us that the
24 Open Housing Center is the most important. Then El
25 Dario and the Amsterdam News and the minority press

1 ads saying that a particular apartment or two or three
2 is available. I have always thought of advertising,
3 indeed, it might be said to be something like this, for
4 instance, a long blurb about a whole building advertis-
5 ing availability, generally.

6 Even on this page, Starrott City, where we know
7 from passing it by on the Parkway that it is a huge
8 complex, unquestionably with many apartments available --

9 MR. F. TRUMP: That is very important to us, that
10 equal housing, and there is one thing after that --

11 THE COURT: Let me say this, I think I can see
12 where in multiplying these tiny ads with these extra
13 lines it could conceivably be a very expensive item.

14 MS. GOLDSTEIN: The defendants' ads are not tiny.
15 A 14-line ad is not considered tiny in the industry, your
16 Honor.

17 THE COURT: I don't know whether they are all --

18 MS. GOLDSTEIN: The ads that I have seen of the --

19 MR. F. TRUMP: One-inch is fourteen lines.

20 MR. D. TRUMP: It is a very small ad.

21 THE COURT: They get fourteen lines in one inch?
22 Off the record.

23 (Discussion off the record.)

24 MS. GOLDSTEIN: Your Honor, perhaps we could work
25 out a rotating proportion, that is, every other ad, to
cut the expense in half.

1 MR. D. TRUMP: Will you pay for the expense,
2 Donna?

3 MR. BRACHTL: We have heard much about the expense,
4 and I was wondering what the number of ads is that ex-
5 ceeds eight lines, what the total advertising budget is
6 and what the cost is of inserting these three words in
7 each ad.

8 MR. COHN: We can tell you something about that
9 right now, but I want to say that it almost seems that
10 by insisting on this you defeat your own purpose.

11 If I picked up a newspaper and was looking for an
12 apartment, if I were in a minority group and I saw ten
13 ads or eight ads out of over two thousand which said
14 "equal housing opportunity," or something, and not one
15 other did, I would almost assume that the others all do
16 not have equal housing opportunity and I was confined
17 to these eight or ten.

18 That is the last impression they want to create
19 because their point is that everybody is bound by this.

20 MR. BRACHTL: We will take the risk.

21 MR. COHN: If a minority person is looking and
22 sees eight or ten have this logo and 1990 don't, it is
23 almost going to seem that the others do not observe the
24 law insofar as this is concerned.

25 If you read this, Judge Neaher, in line with the

1 other provisions of this decree where you had the ad-
2 vertising equally in minority newspapers, the furnish-
3 ing of lists to the Urban League, the record-keeping
4 system, the constant notification system to add to all
5 of that the fact that in every relatively small ad they
6 have got to be the one person in the history of the
7 City of New York to do this in the form of a consent
8 decree seems grossly unfair.

9 MR. BRACHTL: Mr. Cohn, you have digressed from
10 my question. Now if you would respond to the inquiry
11 about the --

12 MR. COHN: I don't think you were here -- cost of
13 the ad? When we talked about the lineage, you were not
14 here. I think that Donna is familiar with that.

15 There are, I suppose, more than most people, we
16 do run some larger ads. This logo would not be in at
17 all. It would be in some. That's the way it would be.

18 MR. BRACHTL: Expense was put forth as the primary
19 objection, and I am curious about the expense.

20 MR. F. TRUMP: We would be the laughing stock of
21 the industry if we were the only ones that had --

22 MS. GOLDSTEIN: I don't think the defendants are
23 in a position to say they will be the laughing stock of
24 the industry.

25 THE COURT: You might be commended.

1 MS. GOLDSTEIN: New York City is a little behind
2 other cities in the use of advertising. I don't believe
3 this will continue for very long.

4 You won't find too many other cities in situations
5 like this. You pick up the Washington Post and it is a
6 common occurrence. It is not -- the other defendants
7 have not been subject to a suit under Title 8.

8 The HUD guidelines are very explicit and it is --
9 this provision is considered to be the most effective,
10 and one of the very most important in a consent decree
11 of this kind.

12 To say that they are going to be the laughing
13 stock I think is simply not the question here before
14 the Court.

15 MR. COHN: Are these other ads all in compliance
16 with HUD regulations which don't have the logo?

17 MS. GOLDSTEIN: Apparently not.

18 MR. COHN: Apparently there is a custom and usage
19 which has been recognized on the part of every builder
20 and developer.

21 Your Honor pointed to Starrett, which is a good
22 example. It is not done and the Government has never
23 asked them to do that.

24 In a decree here and in a period of over three
25 years since this regulation was specifically promulgated,

1 which they say, and I read it a little differently,
2 supports this, nothing has been done with reference
3 to the others.

4 So we are now asked to have this and it is --

5 MS. GOLDSTEIN: We are negotiating the resolution
6 of a claim, Mr. Cohn, a claim by the United States of
7 a continuing practice over a long period of time of
8 racial discrimination which has caused most Trump prop-
9 erty in New York to be virtually all white.

10 MR. F. TRUMP: We deny that.

11 MR. D. TRUMP: You should even be allowed to say
12 that.

13 THE COURT: How long did you have in mind that
14 this requirement would endure?

15 MS. GOLDSTEIN: Two years.

16 MR. ESKANAZI: If we refer ourselves to the HUD
17 guidelines, there is language in there, and I think the
18 spirit of the HUD guidelines is such where they want to
19 avoid what Donna is asking us to do. They mention in
20 language they don't want advertising made where you
21 single out a particular group.

22 I think if two thousand ads in the Times don't
23 say anything, in twelve of ours it will say "equal
24 opportunity," we are more or less putting up a red
25 flag saying we will take minority groups -- the others

1 may not, but we will.

2 The HUD guidelines specifically --

3 MR. BRACHTL: That is to be applauded.

4 THE COURT: Not necessarily. That is the whole
5 problem with schools and everything else.

6 MR. ESKANAZI: It can be overdone.

7 MR. BRACHTL: I gather, however, at least the
8 expense claim is no longer put forth.

9 THE COURT: You probably ought to grab the appli-
10 cants that read the New York Times.

11 MS. GOLDSTEIN: What Mr. Eskanazi brings up about
12 the HUD guidelines, it is the practice of the defendants
13 to take certain properties and only use them there.

14 You find large developers which operate proper-
15 ties which have a sufficient black population and some
16 with almost white, the slogan and the logo may be run
17 only in his properties in which he is trying to appeal
18 to minority groups; that is a term of art in the industry
19 and it is called stealing, and that is what the HUD
20 guidelines are aimed at.

21 THE COURT: Is there any way, looking over at
22 the next provision with respect to the black and Puerto
23 Rican communities monthly 15-line display ads, is it
24 possible to solve this by having them place at some
25 periodic interval a larger ad for Trump buildings, or

1 what have you, in which this would appear?

2 This might even get Starrett to do it, figuring
3 this is a good --

4 MS. GOLDSTEIN: Trump owns a significant portion
5 of Starrett.

6 MR. D. TRUMP: We are limited partners in that,
7 really nothing to do with it.

8 MS. GOLDSTEIN: It can be perhaps handled by
9 increasing the number of ads and the size of ads in the
10 black and Puerto Rican press, or --

11 THE COURT: I was thinking that in addition to
12 the black and Puerto Rican -- of course, it says in
13 media directed primarily toward --

14 MR. F. TRUMP: Anyway, to leave those ads out is
15 really repulsive. The New York Times is the greatest
16 minority newspaper, and to --

17 MR. D. TRUMP: Anybody looking for an apartment
18 in New York is going to pick up the New York Times,
19 whether black or Puerto Rican.

20 THE COURT: Would you object to the requirement
21 that on, say, whatever this is, a monthly basis for the
22 next two years you insert some kind of large general
23 ad which included this equal housing opportunity and
24 fair housing logo?

25 MS. GOLDSTEIN: I have another alternative, your

1 Honor.

2 How about having them, as we do with the other
3 provisions, advertise equal housing opportunities for
4 properties with say a black percentage occupancy, per-
5 centage of less than 15 per cent?

6 MR. COHN: We might have an answer.

7 THE COURT: Is it possible to do that?

8 MS. GOLDSTEIN: They have to keep records, in any
9 event. They will have the records available --

#5

10 THE COURT: What I am trying to say is, here we
11 seem to be concerned with the development of individual
12 apartments that come on the market and an ad goes in, a
13 little ad.

14 MR. F. TRUMP: It is one in that building, two
15 in this building, nothing big.

16 THE COURT: All I am saying, actually I am not
17 altogether sure that I would ever construe this require-
18 ment as fitting within the confines of something an inch
19 high, honestly I wouldn't. Perhaps I don't live in
20 Washington. I have daughters there and I go there and
21 I see the Washington Post a couple of times a year.
22 The next time I go there I am going down to look and
23 see if they are there.

24 It is obvious that nobody else here will have it
25 in, but I think there is something to be said, the

1 defendant is in a lawsuit, claims have been made, in
2 requiring them to place some kind of advertising in a
3 paper such as this or in the Sunday Real Estate, maybe
4 in the Sunday papers.

5 MR. COHN: Would this solve it? This whole
6 decree is cast around quarterly reporting. Suppose we
7 take a large ad quarterly --

8 MS. GOLDSTEIN: That is three times a year, your
9 Honor.

10 MR. ESKANAZI: Two inches, three inches, four
11 inches, and rotate so each time we throw an ad like
12 that it would be a different building, so eventually
13 we would reach all our buildings.

14 THE COURT: Three times a year is not very much.

15 MR. ESKANAZI: Four times a year.

16 MR. COHN: Let's say every ad over five inches
17 or six inches.

18 MR. D. TRUMP: We have many ads over five inches,
19 I would say.

20 MS. GOLDSTEIN: May I make one additional point,
21 your Honor? I know we are stretching your patience
22 considerably.

23 THE COURT: I am an exceedingly patient man.
24 I am really interested in trying to work out something
25 here which I think is going to be realistic and not

1 just because it is acceptable to the defendant. I
2 really shrink at the thought that this statement would
3 appear in those tiny little ads.

4 Remember landlords in this city have many burdens,
5 there is no question about that, and that is one of the
6 big problems about this city. What I am trying to say
7 is I really think there ought to be at least a monthly
8 ad here of some sort.

9 I was thinking -- I don't know whether you do
10 this or not, something that would be visible to the eye,
11 three or four-inch ad, or whatever it is. I don't know
12 whether you do that.

13 MR. F. TRUMP: You want one a month, Judge? We
14 will put three or four buildings together and say it
15 once a month.

16 MR. COHN: Judge, we will do that.

17 THE COURT: Can't we insure that the buildings
18 rotate? I don't know whether it is possible --

19 MS. GOLDSTEIN: How many buildings are we choosing,
20 one building to be advertised?

21 MR. ESKANAZI: I think it should be up to us,
22 as many as we see fit: two, three, four.

23 THE COURT: Subject to your surveillance, wouldn't
24 it be? If you have a complaint about it you make the
25 complaint. In other words, the idea is that it will,

1 the advertising will apply to all their buildings, I
2 take it, and to comply with the spirit of this I think
3 all of them at one time or another in a revolving way
4 should turn up in these ads.

5 MR. D. TRUMP: Could we do this, once a month
6 we will take a certain number, not just a big blank
7 ad that says "Trump Equal Housing," but once a month if
8 we take it on a rotating basis, you have twelve months,
9 and if we could take three or four buildings, put them
10 together and then at the bottom of that, we will take
11 three or four Queens buildings, three or four different
12 Brooklyn buildings, and over the period of twelve months
13 we have covered all of our buildings, and then some,
14 and probably we will go over some two or three times.

15 MS. GOLDSTEIN: Can they be a display advertise-
16 ment --

17 MR. D. TRUMP: They are expensive. Nobody uses
18 that.

19 MR. ESKANAZI: This is a misunderstanding as to
20 the terminology or definition of display, because I
21 think you will see that in the next point when they
22 talk about El Dario or Amsterdam News, where they speak
23 of 15-line display ads, they are talking about something
24 of one inch.

25 I think the Government speaks in terms of display

1 ad as merely signifying a black line around the ad.

2 MR. D. TRUMP: If we can do that I think it would
3 be satisfactory.

4 MS. GOLDSTEIN: Can we agree to a size?

5 MR. COHN: Three inches?

6 MR. ESKANAZI: Three inches or more.

7 THE COURT: We will say at least three inches.

8 MS. GOLDSTEIN: What Mr. Bracht1 and I have been
9 considering is the significant decrease in the number
10 of properties and impact that this provision would
11 incur, decrease in terms of frequency, impact, number
12 of properties that it will cover as opposed to the
13 provision that the defendants signed, agreed to solely
14 on the consideration of putting off a trial date and
15 that would have been part and parcel of each subsequent
16 agreement.

17 The defendants have agreed to this provision.
18 They now come into court and say to your Honor it is
19 unreasonable. I think even considering the equities,
20 the defendants had reached a settlement agreement and
21 this provision was included. It is not an unreasonable
22 provision.

23 I wonder whether there could be this compromise,
24 however, from going to every-day ad to one add once a
25 month, which would only cover a small percentage of

1 their buildings.

2 MR. BRACHTL: Perhaps a flat percentage, perhaps
3 50 per cent; in other words, all offerings considered as
4 a unit, the offer of one apartment in one newspaper on
5 one day. If 50 per cent of those offerings are units
6 included with the logo -- not the logo, but the recita-
7 tion of "equal housing opportunities," then -- otherwise
8 what we are describing here is a reduction from daily
9 coverage to twelve times a year, once a month; and,
10 further, to reduce from what appeared to be a fair number
11 of ads each day to just three or four once a month, which
12 means that we will have a reduction in the coverage or
13 the exposure in this advertising program down to about
14 one per cent.

15 THE COURT: Don't you think you get more visibi-
16 lity with a larger ad? That certainly attracts my atten-
17 tion.

18 The first time I glance at the paper I look at
19 the large ads.

20 MR. BRACHTL: In whatever manner the defendants
21 would wish to connect the recitation, the equal housing
22 opportunity recitation with specific ads, would be up
23 to them, but the requirement would be that 50 per cent
24 of these advertising units, that is one apartment being
25 offered on one day, would have to be associated either

1 in a block or individually with this recitation.

2 If they wish to block all of their ads together,
3 if they wish to diminish their advertising from seven
4 days a week to one day a week, whatever their advertising
5 is, 50 per cent of the units offered, considering a unit,
6 as I say, the offer of an apartment on a day, would have
7 to be associated with either in a block or separately
8 with this recitation of "equal housing opportunities,"
9 unless they cut their advertising costs any way they
10 wish to.

11 MR. D. TRUMP: We have to pay for that extra line.

12 MR. F. TRUMP: Then we are the only ones in there.

13 MR. D. TRUMP: You can't really block them to-
14 gether anyway in most cases because in most cases if you
15 notice it is in the specific borough and location, such
16 as Luna Park, let's say, Forest Hills, they are all in
17 different locations.

18 If we own ten buildings in Brooklyn, they are
19 going to be four or five inches apart, or maybe twelve
20 inches apart, in an entirely different column; in the
21 Luna Park section, the Brighton Beach section.

22 MR. BRACHTL: If that is true, then there will be
23 difficulty conforming to your program.

24 THE COURT: The difficulty in consolidating in one
25 ad would be in a particular section at a time; that is

1 Brooklyn one time, Queens, whatever.

2 MR. D. TRUMP: We are willing to do that.

3 MR. BRACHTL: That means about once a year Brook-
4 lyn, for example, would have three or four apartments
5 advertised with the equal opportunities.

6 MR. COHN: How does this read, with reference to
7 advertising for New York City buildings, the words
8 "equal housing opportunity" and the fair housing logo
9 shall appear in an ad to run once a month, of a minimum
10 of three inches in the New York Times, and specific
11 apartments shall be advertised and the buildings adver-
12 tised shall be rotated on a sectional basis so that all
13 Trump New York City buildings shall be covered in such
14 ads over the course of a year at least once, one or
15 more times?

16 MR. F. TRUMP: We were just talking about, not
17 the logo, we were just talking about the line "equal
18 opportunity."

19 THE COURT: You can't put a logo?

20 MR. F. TRUMP: That would make a display ad out
21 of it.

22 MR. COHN: We are talking about the words "equal
23 housing opportunity."

24 THE COURT: I don't know what the newspaper rules
25 are.

1 MS. GOLDSTEIN: I suppose every newspaper is
2 different.

3 MR. F. TRUMP: If you put the logo in it is con-
4 sidered a display ad.

5 We are talking about equal housing opportunity.
6 We were not asked to put a logo in because that is a
7 larger ad.

8 MR. COHN: Then we would agree that the words
9 "shall be prominently placed and easily legible,"
10 meaning the words "equal housing opportunity," shall
11 be -- with reference to advertising for New York City
12 buildings --

13 THE COURT: You would have to modify A --

14 MR. COHN: I was going to strike out A from the
15 word "include" down to the fifth line, the word "liter-
16 ature." Then start as follows, "With reference to
17 advertising for Trump New York City buildings," then
18 go back, the words "equal housing opportunity," then
19 insert, "shall appear in an ad to run once a month,
20 of a minimum of three inches in the New York Times.
21 Specific apartments shall be advertised and the buildings
22 advertised shall be rotated on a sectional basis so that
23 all Trump New York City buildings are covered in such
24 ads at least once in the course of a year."

25 Then go back, these words, "shall then be

1 prominently placed and easily legible."

2 MR. BRACHTL: What it also does, it deletes
3 "telephone directories, radio, television..." --

4 MR. ESKANAZI: We don't use that.

5 MR. D. TRUMP: Frankly, you can include that.

6 MR. COHN: You want to include it?

7 MS. GOLDSTEIN: The parties in all their settle-
8 ment talks and agreements heretofore -- this was not
9 envisioned. It renders the provision minute in terms
10 of impact.

11 MR. COHN: You have El Dario, you have the Amster-
12 dam News, direct minority advertising; you've got va-
13 cancy lists being supplied to the Urban League, Open
14 Housing Centers.

15 MS. GOLDSTEIN: You know, if we are going to
16 decrease it from all the properties, I would think that
17 the defendants could place such an ad --

18 MR. COHN: We have agreed on a monthly basis.

19 MS. GOLDSTEIN: I am talking about a weekly
20 basis.

21 MR. F. TRUMP: This is why we couldn't get to-
22 gether.

23 MS. GOLDSTEIN: We had gotten together. We
24 have signatures --

25 MR. F. TRUMP: One more item and we are through.

1 MR. D. TRUMP: You have the whole New York Times,
2 what do you want?

3 MS. GOLDSTEIN: The defendants put their signa-
4 tures to a document which included this provision.

5 MR. COHN: That isn't so.

6 MR. D. TRUMP: I never signed any document.

7 MS. GOLDSTEIN: Mr. Cohn signed it.

8 MR. COHN: You always push without giving these
9 people a chance to read what they are doing.

10 You want them to know what they are doing and you
11 want them to understand it and they want you to under-
12 stand it. You can't be intelligent about something
13 you don't read.

14 MS. GOLDSTEIN: They enter into contracts daily.

15 THE COURT: My suggestion would be to eliminate
16 the word "newspapers" in A and to have really a new B.

17 MR. COHN: Good idea, Judge.

18 THE COURT: With the thought that -- which I
19 consider a distinct advance so far as is apparent to
20 the Court from looking at one of the major papers, it
21 would be looked at in terms of housing or apartment
22 availability, and to have a larger than normal size ad
23 appear regularly on a periodic basis characterizing
24 Trump as an equal housing opportunity landlord or
25 management, building management, apartment management,

1 and provide what you have here somewhere in the footnote,
2 double asterisk, to take that up and make that all part
3 of B before you come to the next one, which I would make
4 C, dealing with the black papers.

5 That might even say that under B, all advertising --
6 I suppose you cover all the New York papers, the Times --

#6 7 MR. F. TRUMP: Just the Times.

8 MR. COHN: That is the only one used.

9 THE COURT: So maybe if that is the only one --

10 MR. COHN: Refer to it specifically?

11 THE COURT: I don't know. I suppose they want to
12 make sure that in case you change your policy, if you go
13 to the Daily News --I don't know what else is around --

14 MR. COHN: Times or comparable publication.

15 THE COURT: I think to make B --

16 MR. COHN: B would read something like this --

17 THE COURT: It says the defendant shall, A, include
18 in all advertising -- I would strike out the word
19 "newspapers" so it would be in telephone directories,
20 whatever --you have no objection to that?

21 MR. COHN: No.

22 THE COURT: Then B --

23 MR. COHN: That would run down to the bottom of
24 the page?

25 THE COURT: Then B would be, include in all

1 newspaper advertising at least once a month an ad of a
2 certain size --

3 MR. COHN: Minimum of three inches.

4 MS. GOLDSTEIN: A monthly ad, which is twelve
5 times a year -- we are going from 365 times a year to
6 12 times a year?

7 MR. BRACHTL: For three to four units to be select-
8 ed by the defendants? Can this not be done on a weekly
9 basis?

10 THE COURT: It is totally unrealistic.

11 MR. D. TRUMP: Will you pay for it?

12 THE COURT: I'm trying to give you something that
13 people will see in large letters in a newspaper that is
14 the major source of advertising and in which I find no
15 other ad containing this legend.

16 If that is not a distinct advance for the Govern-
17 ment, I don't know what is. If you want to litigate
18 this case over that, then I am ready to go. You might
19 not even win that at the end of a final decree.

20 MS. GOLDSTEIN: We understand, your Honor.

21 THE COURT: So I suggest that you phrase along
22 those lines as has been indicated here that the group-
23 ing of buildings in a particular section-- buildings or
24 apartments, whatever it would be, and it would be at
25 least a three-inch ad which I would say would be

1 substantial in size and in which "equal housing oppor-
2 tunity" might even be a two-line or three-line basis,
3 so that you can see it.

4 The logo, I gather, is not possible in this
5 newspaper --

6 MS. GOLDSTEIN: Not unless it becomes a display
7 advertisement.

8 THE COURT: I don't know what you mean by a
9 display advertisement.

10 MS. GOLDSTEIN: Blocked off. One of these
11 squared-off ads.

12 MR. D. TRUMP: It also makes it a very expensive
13 ad.

14 MR. COHN: It couldn't run in the regular real
15 estate column.

16 THE COURT: I agree. That is usually done for
17 new housing, isn't it?

18 MR. F. TRUMP: That's right.

19 THE COURT: You are not talking about new hous-
20 ing.

21 MR. BRACHTL: Might we specify that such an ad
22 be run on the third Sunday of each month?

23 MR. COHN: Why not.

24 MR. BRACHTL: The purpose behind it is simply
25 that the day of the ad is an important one.

1 THE COURT: Make it the first Friday if you want.

2 MR. BRACHTL: With regard to when it is that

3 people are preparing or at least --

4 MR. COHN: That might be a problem, for this

5 reason, apparently they don't control when the vacancy

6 arises and when they are going to place ads.

7 It might be on Friday once, it might be on Sunday

8 another time. I think people who are looking for an

9 apartment don't look once a week.

10 MR. F. TRUMP: The supers are not around on

11 Sunday in the summertime.

12 MR. D. TRUMP: It might very well be on a Sunday,

13 but I don't know if we should put it in specifically

14 for Sunday.

15 MS. GOLDSTEIN: Sunday is the biggest day for

16 looking for housing --

17 THE COURT: You want to limit it to Sunday?

18 MS. GOLDSTEIN: If we are considering from the

19 Government's standpoint the greatest impact, a Sunday

20 advertisement is clearly a greater impact than a Wednes-

21 day advertisement.

22 MR. F. TRUMP: It gets lost on a Sunday because

23 it is twice as much.

24 MR. D. TRUMP: Believe it or not, you have twelve

25 pages of apartment advertising.

1 MR. F. TRUMP: If you want it on a Sunday, you
2 have it.

3 MR. BRACHTL: May we suggest --

4 THE COURT: This is a Sunday paper here, I see.

5 MR. ESKANAZI: I think, your Honor, if you do
6 grant the Sunday, I think it should be one Sunday a
7 month, but not a specific Sunday, for the simple reason
8 that it makes it hard because of vacancies, we may not
9 have enough to throw in an ad of that size.

10 THE COURT: You don't care as long as it appears
11 once on Sunday a month.

12 MS. GOLDSTEIN: Statistically, there will be
13 more people looking for an apartment, I believe, by the
14 third or fourth week --

15 THE COURT: Maybe there is a technical problem
16 from their standpoint.

17 MR. BRACHTL: Maybe we can write the decree so
18 as to provide that the Government can provide the day.
19 We have not having experts --

20 THE COURT: I don't think that is realistic.

21 MR. D. TRUMP: One Sunday a month, Judge.

22 MR. BRACHTL: Not a day for their discretion.
23 I am asking that it be made in our discretion.

24 THE COURT: I don't understand. It seems to
25 me that it is very -- they indicate that they cannot

1 control the space allocations of newspapers. They can
2 take an ad for a Sunday, I take it, and then it will
3 go in on some Sunday in that month.

4 MR. ESKANAZI: No, your Honor.

5 MS. GOLDSTEIN: It has to be in by Thursday night
6 of the week before.

7 MR. ESKANAZI: Because these people are not
8 experts in housing, I might point out that the third
9 or fourth Sunday would be a horrible time, and we are
10 aware of our vacancies in the last week of the preceding
11 month and perhaps the first or second Sunday would be
12 the best time -- we never know.

13 MS. GOLDSTEIN: Do your leases generally run on
14 the first of the month?

15 MR. ESKANAZI: All of them do.

16 MR. COHN: Would this be something that you had
17 in mind as regards to B --

18 THE COURT: Let's see, the defendant shall, B,
19 shall advertise -- put it this way, advertise at least
20 one Sunday a month.

21 MR. COHN: How about with reference to newspaper --

22 THE COURT: You have three there. We don't want
23 to change it all.

24 The defendant shall, A, -- and this is a mandatory
25 direction --

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MR. COHN: A is just the way it is.

THE COURT: B will begin "shall advertise..." --

MR. COHN: The defendants shall advertise not less than once a month.

THE COURT: At least one Sunday in every month or shall -- well, or shall -- insert in a newspaper of general circulation, such as the New York Times -- how about that?

MR. ESKANAZI: Fine.

MR. COHN: Yes.

THE COURT: (Cont'g) -- newspaper of general circulation, such as the New York Times, at least one Sunday in every month, and an advertisement of at least three inches in length, advertising available apartments in a particular section --

MS. GOLDSTEIN: With a rotating provision.

THE COURT: On a rotating basis, and shall include in-- what would you say -- larger type of some kind, the words "equal housing opportunity" -- we can't say the logo, apparently.

MR. COHN: No.

MR. F. TRUMP: At the foot of the ad.

THE COURT: At the foot of the ad. All right.

MR. COHN: And shall contain at the foot of the ad the words "equal housing opportunity."

1 THE COURT: I don't know what kind of type you
2 call it. It may be a sized type.

3 MR. COHN: In caps.

4 THE COURT: In at least something typed -- type
5 size-- "equal housing opportunity."

6 MS. GOLDSTEIN: Are we to specify the minimum
7 number of properties to be included in the advertising?

8 THE COURT: They may want to put a bigger ad in.
9 What's wrong with that?

10 MS. GOLDSTEIN: That's wonderful. I am talking
11 about the minimum number of apartments to appear so
12 that it is not one apartment.

13 THE COURT: If it is at least a three-inch ad,
14 you have to -- I can't see them as a practical matter
15 just putting one apartment in a three-inch ad. I think
16 some discretion -- they will utilize the space. Their
17 business economics would demand that they not throw
18 their money away on white paper.

19 I am leaving it up to their good faith and your
20 surveillance. If a problem develops we can resolve
21 it at that time. Let's see how it works.

22 MR. COHN: Fortunately, we are now on page 12,
23 paragraph two.

24 The second full paragraph, beginning "The re-
25 cruiting and hiring nonwhite employees." That the

1 defendants shall not require nonwhite persons to possess
2 qualifications more exacting than those that were in
3 effect with respect to whites before the institution
4 of this action.

5 We are asking that that be eliminating, pointing
6 to the fact that on page 10 we agree affirmatively to,
7 even though this complaint in this action raises ab-
8 solutely no questions about employment, this is not
9 an employment case or an antitrust case, it is a
10 civil rights rental case, but nevertheless we are will-
11 ing, because we do it, to say -- to agree to an affirm-
12 ative employment program, saying that we shall hire,
13 without regard to race, color, religion, sex or national
14 origin, and will endeavor to place blacks and other
15 nonwhite persons in supervisory and professional posi-
16 tions as vacancies for which they are qualified arise.

17 We don't feel that in this apartment decree,
18 rental decree, we should be required to put in that
19 second paragraph on page 12, subdivision two. We don't
20 see that it adds anything that is not already in what
21 we have agreed to in page 10.

22 MR. BRACHTL: It adds quite a bit, your Honor.
23 It adds a requirement that employment requirements and
24 qualifications not be raised at least with respect to
25 nonwhite applicants for jobs; that is, not be raised

1 over the standards and qualifications which were in
2 force at the time that this action commenced.

3 MR. COHN: We will give it to them. I don't
4 understand it, but we will give it to them.

5 MS. GOLDSTEIN: Page 13.

6 MR. COHN: They have agreed to our request.

7 THE COURT: What is it on 13?

8 MR. COHN: That is the thing that Mr. Trump was
9 talking about before, the children of the different
10 sexes over ten years old.

11 MR. F. TRUMP: We have two-bedroom apartments,
12 Judge. They are small and built under FHA specifica-
13 tions, 100 square feet, the second bedroom. We rent
14 those to couples. In Jamaica Estates we have probably
15 1700 families in a dozen different buildings. Three
16 of them have more than 15 per cent blacks, but these
17 people, their children are married, they sold their
18 home, they move in with us, we say carefree living and
19 they take the second bedroom; there are no children in
20 there, for instance, and -- the Wilshire, 220 families,
21 there are six children in the whole building out of
22 220 families.

23 We have 40 per cent two-bedroom, and they want
24 to tell us that we must put up to two children in each
25 bedroom. That building would have 160 children where

1 our pattern is --

2 MR. COHN: How would you like to do it, can
3 you tell the Judge?

4 MR. F. TRUMP: We want to follow the same pattern
5 that we have. Whatever the vacating family from a two-
6 bedroom has as far as children are concerned, we will
7 put the same exact family in there. We don't want to
8 have two children of opposite sex sleep in a little
9 bedroom where the most you could get in is a double bed.
10 You have a girl and boy ten years old. The next year
11 they are eleven and then twelve and they are in a
12 single bedroom. It's bad housing and we have not done
13 it. We would be changing our pattern that we have
14 established over twenty years.

15 If that could be changed to say a two-bedroom
16 should have the same occupancy as the vacating tenant --

17 MS. GOLDSTEIN: Then you would be forced to
18 rent to two children --

19 MR. F. TRUMP: Even Patio Gardens, which is
20 all colored, we don't have children.

21 THE COURT: I'm not sure of those changes.

22 MR. F. TRUMP: They say two children of the
23 opposite sex to occupy -- up to two children of the
24 opposite sex to up to ten years of age --

25 THE COURT: It is really the footnote.

1 MS. GOLDSTEIN: We have already stated that five
2 is okay with us.

3 MR. F. TRUMP: We don't want the two children
4 where there is an adult building with a beautiful lobby
5 and carpeting in the halls.

6 MR. COHN: How do you want to word it exactly?

7 MR. F. TRUMP: A two-bedroom should have the
8 same occupancy as the vacating tenant.

9 MR. COHN: The defendant shall not be required
10 to use as a leasing standard for a vacated two-bedroom
11 apartment anything --

12 MR. F. TRUMP: Any higher census than presently
13 vacating the apartment.

14 MR. ESKANAZI: I have a suggestion that would
15 make it easier. Under 2, Occupancy, not more than
16 two persons in the one-bedroom apartment; not more than
17 three persons in a two-bedroom apartment.

18 MR. F. TRUMP: That is no good.

19 MS. GOLDSTEIN: That's fine with us.

20 MR. COHN: Maybe they will want to do it in a
21 certain case.

22 MR. F. TRUMP: If we have six children and 200
23 families or 150 families, we certainly don't want one
24 if 150 families have 60 two-bedroom, we don't want 60
25 children in there; they would ruin the lobby and ruin

1 the building.

2 They'd bring ten children from around the corner
3 and they -- it is unfair to have children in the build-
4 ings because they are adult buildings.

5 MS. GOLDSTEIN: You can turn these into adult
6 buildings.

7 THE COURT: I don't think there is a dispute, but
8 it is the phrasing that troubles me a little bit.

9 There are some laws about -- there used to be
10 laws about restricting people with children from renting,
11 were there not?

12 MR. F. TRUMP: It is unfair to the children to
13 put them in an apartment. It is unfair where you say
14 you can't do this --

15 MS. GOLDSTEIN: A lot of people have no other
16 alternative, though.

17 THE COURT: I don't think the Court can sign a
18 decree which violates local law with respect to --

19 MR. F. TRUMP: Would you say two children not
20 over four years, Judge, babies, you don't put a ten-
21 year-old boy with a ten-year-old sister.

22 THE COURT: I agree with everything you say.

23 MR. ESKANAZI: Why say two when we said they
24 will even give you one only. Let's restrict it to one.

25 MR. F. TRUMP: I would like to say as the

1 vacating tenant had.

2 MR. COHN: This should not be a restriction
3 against you, this should be the minimum you have to live
4 up to.

5 If you want to make an exception they will be
6 pleased.

7 THE COURT: There is nothing wrong, is there, with
8 not more than two persons in a one-bedroom apartment?

9 MR. F. TRUMP: Then we would have to rent to two
10 children if they did come around.

11 THE COURT: Wait a minute. You are not focusing
12 on something. You under Occupancy, not more than two
13 persons in a one-bedroom apartment.

14 MR. F. TRUMP: Fine.

15 THE COURT: Are these beyond two-bedroom apart-
16 ments or is that your maximum?

17 MR. F. TRUMP: We go to two-bedroom arrangements;
18 that is the maximum.

19 THE COURT: What you want to say is in two-
20 bedroom apartments --

21 MR. F. TRUMP: Same occupancy as the vacating
22 tenant had.

23 THE COURT: Same occupancy as the two-bedroom --

24 MR. D. TRUMP: It says not more than. You can't
25 rent to more than -- to solve this, make it on the bottom

1 instead of ten-year-old, make it five-year-old and end
2 up doing it that way.

3 MR. COHN: Make it four years old.

4 THE COURT: You don't seem to understand, as
5 your son is pointing out, this is really telling you
6 you can't rent to more than four persons in a two-
7 bedroom apartment. You can't stuff five, six, seven,
8 and you don't have any desire to.

9 MR. COHN: You shall not be required --

10 MR. F. TRUMP: Rent to more than two children
11 in a two-bedroom. We want to maintain the pattern
12 that has been set in the building.

13 MR. D. TRUMP: You can do that. You can rent
14 to two adults.

15 THE COURT: It says you shall not be required
16 to rent a two-bedroom apartment to more than four
17 persons, including not more than two adults and includ-
18 ing no more than two children.

19 MR. F. TRUMP: Now we have two persons in a
20 two-bedroom -- in all our two bedrooms you have two
21 persons.

22 MS. GOLDSTEIN: As long as the decision to ac-
23 cept someone without children is made on that basis
24 rather than grounds impermissible and which violate
25 the injunction. You have certain leeway in your

1 rental decisions.

2 THE COURT: The problem is the ten years down
3 in the footnote, isn't it?

4 MR. D. TRUMP: If you made that five I think the
5 whole problem would be solved.

6 MR. ESKANAZI: Can we say in a two-bedroom
7 apartment, we refer to the double asterisk below, and
8 that says procedures are based on defendants' past
9 practices described in discovery?

10 Mr. Trump's past practice has been to rent these
11 apartments to people similar to the ones he has had
12 before.

13 MR. COHN: How do you word that? Could we put
14 a comma after the word "discovery" in footnote two,
15 including the procedures are substantially based on
16 defendants' past practices, as described during dis-
17 covery, including a policy of favoring vacating census?

18 MR. F. TRUMP: If a couple moves out of a two-
19 bedroom you put another couple in. If a couple with
20 two childre move out you put a couple with two children
21 in, but not that we are bound to every two-bedroom --

22 MR. COHN: Including a policy --

23 THE COURT: Why don't we say, not more than two
24 persons in a two-bedroom apartment -- defendant, whatever
25 it is, defendants shall follow their customary procedures.

1 MR. F. TRUMP: As far as census is concerned.

2 MR. ESKANAZI: What he means is the numbers,
3 occupancy.

4 THE COURT: Is that something that is a term of
5 art in your business, census?

6 MR. F. TRUMP: Yes. Census per apartment.

7 MR. BRACHTL: It is somewhat ambiguous, your
8 Honor.

9 THE COURT: It is not necessary.

10 MR. ESKANAZI: It is not necessary.

11 THE COURT: For a two-bedroom apartment --

12 MR. F. TRUMP: To follow past practices.

13 MS. GOLDSTEIN: These procedures are substan-
14 tially based on defendants' past practices described
15 during discovery.

16 MR. F. TRUMP: You don't need the opposite
17 section.

18 MR. ESKANAZI: We can throw out the first aster-
19 isk completely.

20 MS. GOLDSTEIN: As long as you agree to five,
21 we prefer to leave that.

22 THE COURT: It is just fixing it up here. The
23 first sentence stays. The next would be for a two-
24 bedroom apartment defendant shall follow its existing
25 practice, and then maybe that could be the one foot-

1 note, these procedures are substantially based on such
2 procedures -- the limitation on children will be five
3 years, is that it?

4 MS. GOLDSTEIN: Children of different sexes.

5 THE COURT: And where children --

6 MS. GOLDSTEIN: Where it says, and two children
7 of the same sex, asterisk --

8 THE COURT: It could all be consolidated into
9 one note.

10 MS. GOLDSTEIN: Yes.

11 THE COURT: Up in the text for a two-bedroom
12 apartment defendant will follow its past practices of
13 occupancy.

14 And then an asterisk, and then you can say
15 these past practices were described during the dis-
16 covery. That's what you want to refer to, is that it?

17 Except that children -- that where two children
18 are involved of opposite sex, they shall be under five
19 years of age. Is that the point?

20 MS. GOLDSTEIN: There is one slight problem --

21 MR. F. TRUMP: Why would you say it at all,
22 Judge? It is superfluous.

23 MS. GOLDSTEIN: The one problem which I hesi-
24 tate to bring up is that with respect to occupancy, I
25 don't think the past practices as described during

1 discovery were at all uniform.

2 The second asterisk about past practices as
3 described during discovery talks about application pro-
4 cedure. That was fairly uniform.

5 THE COURT: The Government's desire is not to
6 stuff more people in a two-bedroom --

7 MS. GOLDSTEIN: As long as it is uniform and
8 objective we don't really care.

9 THE COURT: You want to say for a two-bedroom
10 apartment defendant shall adhere in a uniform manner to
11 its past practices?

12 MR. F. TRUMP: It shall not exceed the vacant
13 occupancy --

14 MR. ESKANAZI: If your past practice was to rent
15 to people, you continue to rent to people.

16 THE COURT: I said in a uniform manner. So this
17 is to be revised. Adhere to past practice.

18 MR. COHN: On page 17-D.

19 MS. GOLDSTEIN: No problem with that.

20 MR. COHN: We have no problem on our next point,
21 17-D, and no waiting list.

22 MS. GOLDSTEIN: Added to the asterisk.

23 MR. COHN: At the bottom of the page, Judge
24 Neaher, we say Trump Village shall be excepted from
25 this provision prohibiting the use of a waiting list.

1 THE COURT: Trump Village shall what?

2 MS. GOLDSTEIN: Trump Village shall be excepted
3 from this provision prohibiting the use of a waiting
4 list.

5 MR. D. TRUMP: Can I get this straight, your
6 Honor? It seems a little bit difficult for me to under-
7 stand. You have a waiting list. What we are saying
8 now is that we have no waiting list, so somebody comes
9 in looking for a three-bedroom apartment, a qualified
10 tenant comes in for three months, four months looking
11 for a three-bedroom apartment, a superintendent meets
12 the person, knows the person, likes the person, wants
13 to rent the person an apartment. Finally a three-
14 bedroom apartment becomes available. Somebody walks
15 in just by chance and theoretically then that person
16 would have the right --

17 MS. GOLDSTEIN: We understand that Trump Village
18 has a waiting list.

19 MR. D. TRUMP: I am talking about our other
20 buildings.

21 MS. GOLDSTEIN: That is the procedure described
22 throughout discovery, that it is a first-come - first-
23 served-no waiting list being maintained, and no call-
24 backs are done, and therefore to maintain a uniform
25 procedure --

1 MR. COHN: You don't want to restrict yourself --

2 THE COURT: You don't want to raise problems
3 here.

4 MS. GOLDSTEIN: We are following what we under-
5 stood to be your practices.

6 THE COURT: Trump Village shall be excepted
7 from this provision -- is that correct?

8 MR. F. TRUMP: That was a nice half day's work,
9 Judge.

10 MR. COHN: Something we fell apart on here is
11 press release. We had first suggested --

12 THE COURT: Have we solved this? Is it to be
13 signed? Do you have an original to be signed?

14 MS. GOLDSTEIN: We have an original that needs
15 some minor changes.

16 THE COURT: I want them to sign the original
17 right now.

18 MR. COHN: Can we sign our original right now,
19 Judge?

20 THE COURT: Mine is not fully marked. I have
21 notes indicating what is to be done. You sign the
22 original and I will not sign. I will only sign when
23 I am satisfied that the new inserts conform to what
24 has been said here, then it will become final.

25 I want the clients to sign the back page on

1 the understanding that the signature carries with all
2 the changes we've discussed.

3 I will sign that decree only when I am satisfied
4 that those changes conform.

5 MR. COHN: As to a press release, we wanted no
6 press release. They objected to that. Then we decided
7 in view of the history of this, we suggested a joint
8 press release. They wouldn't go for that. So there
9 is that provision --

10 THE COURT: What was done with Lefrak?

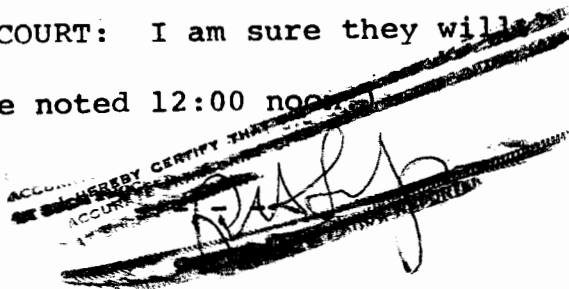
11 MS. GOLDSTEIN: Essentially, your Honor, we
12 don't do anything about press releases. We have a
13 public information office that takes simply the decree
14 and writes out an informational release. We have
15 given --

16 MR. COHN: They will say what they want and we
17 will say what we want.

18 THE COURT: I am sure they will.

19 (Time noted 12:00 noon)

20
21
22
23
24
25



ERN

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.
★ MAR 7 1978 ★
TIME A.M. _____
P.M. _____

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
TRUMP MANAGEMENT, INC.,)
)
Defendant.)

CIVIL ACTION NO. 73 C 1529
MOTION FOR SUPPLEMENTAL RELIEF

The United States of America, plaintiff herein, respectfully moves this Court for an Order granting supplemental relief against the defendant Trump Management, Inc. (hereinafter sometimes referred to as Trump). In support of its motion, the United States alleges:

1. On October 15, 1973, the United States filed its complaint in this action, alleging violations of the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601 et seq., and prayed that the Court enter an Order enjoining the defendant from future violations of Title VIII, and directing it to take such affirmative steps as might be necessary to correct the effects of its past discriminatory practices.

2. On June 10, 1975, this Court entered an Order, by consent of the parties, permanently enjoining Trump and those in privity with it from engaging in any discriminatory practices prohibited by the Fair Housing Act. The defendant was also ordered to implement an affirmative program to promote equal housing opportunity. The principal officers of Trump Management, Inc. were ordered to acquaint themselves personally and in detail with Trump's obligations under the Order and the various fair housing laws, and to assure themselves that their subordinates similarly understood their responsibilities.

76

3. Trump and its officers and agents have failed to comply fully with this Court's Order of June 10, 1975. Specifically, they have

- (a) Made apartments unavailable to black persons on account of race;
- (b) Discriminated against black persons in the terms and conditions of rental of a dwelling on account of race;
- (c) Made statements with respect to the rental of dwellings that indicate a preference, limitation, and discrimination based on race; and
- (d) Represented to black persons because of race that dwellings were not available for inspection and rental when such dwellings were in fact so available;

in violation of paragraphs 1, 2, 3 and 4 of Part II of this Court's Order.

4. In conformity with Part IX of this Court's Order, plaintiff has notified Trump of complaints which have come to its attention and has given Trump a reasonable opportunity to correct the violations. While Trump has, in some instances, accommodated the needs of individual complainants, it has not taken adequate action to prevent future violations, and racially discriminatory conduct by Trump agents has occurred with such frequency that it has created a substantial impediment to the full enjoyment of equal opportunity.

5. Further relief, including additional affirmative action and a substantial extension of the decree, is necessary in order to ensure nondiscrimination in the future and to correct the effects of past noncompliance.

WHEREFORE, the United States prays that, upon a hearing, this Court order

1. that the injunction in this case be extended for such period of time as may be needed to ensure the full enjoyment of equal housing opportunity;

2. that additional affirmative relief be granted to ensure realistic opportunity to nonwhite citizens to rent dwellings at predominantly white buildings, including provisions such as those contained in Part IV of this Court's prior Order, as well as additional steps designed to provide a free and informed residential choice for all persons without regard to race, color, religion, or national origin;

3. that individual victims of discrimination be compensated for any injury caused by unlawful conduct on the part of Trump or its agents; and

4. that Trump be required to continue to report to the Court and to the United States.

Plaintiff further prays for such other and further relief as this Court may deem just and proper, including the costs and disbursements of this proceeding, including reasonable counsel fees.

David G. Trager
United States Attorney

By:
Homer C. LaRue
Homer C. LaRue
Assistant U. S. Attorney

Drew S. Days, III
Assistant Attorney General

Frank E. Schwelb
Frank E. Schwelb, Chief
Housing and Credit Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Brian F. Heffernan
Harvey L. Handley, Attorney
Brian F. Heffernan, Attorney
Housing and Credit Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number
DSD:HLH:mop
DJ 175-52-28

Honorable Edward R. Neaheer
United States District Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Trump Management, Inc.
Civil Action No. 73 C 1529

Dear Judge Neaheer:

On Monday, March 6, 1978, the United States filed a Motion for Supplemental Relief in the captioned case. This letter is intended to bring you up to date on the developments in this matter and also to attempt to arrange for a pre-hearing conference with you and opposing counsel.

As you know, the United States initially filed this lawsuit on October 15, 1973, alleging that the defendant was conducting its apartment rental business in violation of the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq. After considerable delay, a Consent Order was entered on June 10, 1975, */ The defendant was permanently enjoined from discriminating in the rental of housing and required, among other things, to implement an affirmative program of compliance with the Fair Housing Act and report periodically, to the Court and this Department, concerning its rental operations. The affirmative provisions of this Order expired on September 10, 1977.

*/ A copy is attached for your convenience.

MAR 14 1978

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ MAR 21 1978 ★
TIME A.M. _____

(77)

In our pending motion, filed March 8, we allege inadequate compliance with the order and seek extension and expansion of certain of its provisions.

We hope that the motion can be resolved by the parties without the necessity for a hearing. Should such a hearing be necessary, however, it will probably assume the proportions of a full-blown trial and occupy two days or more. Plaintiff will want to conduct a fair amount of discovery before the hearing, and we anticipate that defendant may wish to do the same.


After consulting with Mr. Homer LaRue, Assistant United States Attorney, we have concluded that an expeditious procedure would be for counsel to meet with the Court to discuss the motion and the best manner of proceeding. We understand that a tentative date of April 10, 1978 has been set for this meeting. Although this time is agreeable to us, it appears that Mr. Cohn, defense counsel, will be out of the country on that date April 17, 1978, however, is agreeable to both parties.

Thank you for your consideration in this matter. If the Court believes that the matter should be handled otherwise, we will of course proceed as the Court may direct.

Sincerely,

Drew S. Days, III
Assistant Attorney General
Civil Rights Division

By:


Harvey L. Handley
Attorney

Housing and Credit Section

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
)	
Plaintiff,	)	CIVIL ACTION NO.
	)	73 C 1529 (EN)
)	
v.)	
)	
FRED C. TRUMP, DONALD TRUMP	)	<u>PLAINTIFF'S INTERROGATORIES</u>
and TRUMP MANAGEMENT, INC.,	)	<u>TO THE DEFENDANTS</u>
)	
Defendants.)	
)	

To Counsel for the Defendants

The following interrogatories are addressed to you pursuant to Rule 33 of the Federal Rules of Civil Procedure and you are required to answer each interrogatory separately and fully, in writing, under oath, and to serve copies of your Answers on counsel for plaintiff within the time to be prescribed by the Court. The United States is applying to the Court for an Order that your time to respond be shortened to five days from the date of service.

1. Please state the name and address of each person known or believed by counsel for defendants, by the defendants or any of their officers, agents, or employees to have any information with respect to any alleged misconduct engaged in by Donna Goldstein, Esquire, or by any other representative of the United States in connection with the above-styled case.

2. With respect to each person identified in response to the preceding interrogatory, please provide the following information:

(a) The nature of the alleged misconduct by a representative of the United States alleged by such person;

(b) The time and date upon which such misconduct took place;

(c) The names and addresses of all persons who witnessed or who may have information about the incident;

(d) The means and date by which such information was brought to the attention of the defendants or their counsel; and

(e) A full description of the alleged wrongful conduct by the representative of the United States.

JAMES PORTER
Assistant U.S. Attorney
Chief, Civil Division

Frank E. Schwelb

FRANK E. SCHWELB, Chief
NORMAN P. GOLDBERG, Attorney
Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 FRED C. TRUMP, DONALD TRUMP)
 and TRUMP MANAGEMENT, INC.,)
)
 Defendants.)

at file (copy)
CIVIL ACTION NO. 73 C 1529 (EN)

RESPONSE OF UNITED STATES
TO DEFENDANTS' MOTION OF
JULY 26, 1974

The United States of America, plaintiff, responding on its own behalf and on behalf of its attorney, Donna F. Goldstein, to defendants' "Notice of Motion" seeking an adjudication of contempt against said attorney and a "cease and desist" order against the United States, alleges as follows:

1. The United States denies each and every allegation of improper conduct by Donna F. Goldstein or by any other representative of the United States in connection with the interviews of Carol R. Falcone, Thomas Miranda, Paul Ziselman, Paula Ziselman, or any other prospective witness or other person in this case.

2. The United States alleges that said allegations of improper conduct, including allegations of threats and other devices to influence the testimony of prospective witnesses, are false and scurrilous, and consequently constitute an abuse of the processes of this Court.

WHEREFORE the United States prays as follows:

1. That expedited discovery be had with respect to the allegations of misconduct by the United States and its attorney;

2. That depositions taken during said discovery be supervised by a master;

3. That a full evidentiary hearing be held before this Honorable Court on August 16, 1974, as prayed for in defendants' Notice of Motion;

4. That following the evidentiary hearing, the allegations of misconduct by the United States and its attorney be stricken as scandalous, in accordance with Rule 12(f) of the Federal Rules of Civil Procedure, and the motions for contempt and a cease and desist order be in all respects denied; and

5. That following this evidentiary hearing, this Honorable Court determine whether there has been an abuse of its processes and, if so, enter any appropriate disciplinary or other Order.


The United States further prays for such additional relief as the interests of justice may require, together with the costs and disbursements of this proceeding.

Respectfully submitted,

JAMES PORTER
Assistant U.S. Attorney
Chief, Civil Division



JAMES P. TURNER
Deputy Assistant Attorney General



FRANK E. SCHWELB, Chief
NORMAN P. GOLDBERG, Attorney
Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) CIVIL ACTION NO.
) 73 C 1529 (EN)
)
 FRED C. TRUMP, DONALD TRUMP)
 and TRUMP MANAGEMENT, INC.,)
)
 Defendants.)
 _____)

AFFIDAVIT

WASHINGTON)
) ss
 DISTRICT OF COLUMBIA)

FRANK E. SCHWELB, being duly sworn, deposes and says:

1. I am the Chief of the Housing Section of the Civil Rights Division, Department of Justice and in supervisory charge of the above-styled litigation on behalf of the United States. I make this affidavit in support of our request that an Order be entered herein directing expedited discovery and designating an officer of this Court to supervise depositions with respect to defendants' motion to hold one of plaintiff's attorneys in contempt and for a cease and desist order against the United States.

2. On or about July 26, 1974, defendants filed with this Court a Notice of Motion praying that Donna Goldstein, one of plaintiff's counsel in this action, be adjudged in contempt of this Court for alleged coercion and threats against

prospective witnesses, and that the United States be ordered to cease and desist from such alleged unlawful conduct. The Notice of Motion is purportedly supported by the affidavits of Carol R. Falcone and Thomas Miranda, former employees of defendants, and by the signed but unsworn statements of two former employees, Paul and Paula Ziselman. Also attached to the motion is an affidavit by Roy Cohn, one of defendants' counsel, which purports to describe a number of events at which he was not present and which did not occur in the manner described by him. The papers filed on behalf of defendant call into question the professional conduct and reputation of Donna F. Goldstein, an attorney on the staff of this Section, with whom I am well acquainted and whom I know to have an excellent reputation, both with respect to her legal ethics and in relation to her professional competence. I am satisfied that the allegations of improper conduct against her are without foundation and therefore constitute an abuse of the processes of this Court.

3. In view of the nature of the allegations against Ms. Goldstein, the United States requests that the matter be expeditiously handled in accordance with 42 U.S.C. 3614 so that the factual issues may be resolved and Ms. Goldstein's reputation cleared. We further ask that the evidentiary hearing be held on August 16, 1974 as scheduled.

4. In order to assure that no "surprise" witnesses be called by defendant to further attack Ms. Goldstein's reputation,

plaintiff has propounded brief interrogatories to defendants inquiring into the identity and prospective testimony of all witnesses to alleged misconduct by agents of the United States. Adequate preparation for the hearing will not be possible unless this information is disclosed to the United States in time to take the depositions of possible witnesses in advance of the hearing. Paragraph 3 of the affidavit of Roy Cohn states that defendants have attached the statements of only "some" former employees as to whom Ms. Goldstein is alleged to have acted improperly, which suggests that there are supposed to be others. Accordingly, we ask that the defendants be required to answer these interrogatories within five days, unless defendants voluntarily disclose this information to plaintiff earlier.

5. The essential thrust of defendants' allegations on this motion is that Ms. Goldstein used threats and other unfair tactics in an attempt to influence the testimony of prospective witnesses. The position of the United States is that the allegations of misconduct on Ms. Goldstein's part are false and scurrilous. In order to resolve this issue, it is essential that the testimony of all witnesses, both on deposition and at the hearing, be free of threats, undue influence, or other interference from the parties or from their counsel, and that each party's right to examine and cross-examine witnesses without interruption or disruption be fully protected.

6. The most effective means to assure the orderly conduct of these depositions is to have them supervised by an officer of the Court. At least one of the witnesses to be deposed -- Mr. Miranda -- has expressed fear of reprisal from defendants on two separate occasions, to attorneys for plaintiff -- once to Elyse Goldweber and once to Donna Goldstein, as reflected in their respective affidavits. At a hearing on May 3, 1974, Honorable Vincent Catoggio, United States Magistrate, reprimanded counsel for defendants for failing to carry out their responsibilities relating to discovery and to expedite the action. Accordingly, the most effective means to assure the orderly conduct of these depositions is to have them supervised by an officer of this Court.

WHEREFORE I respectfully request on behalf of the United States that an Order to Show Cause be entered herein as prayed for. No previous application has been made for the relief here requested.

Frank E. Schwelb

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Subscribed and sworn to before me
this 2 day of August, 1974.

Valerie Pruthi
NOTARY PUBLIC

My commission expires: January 31, 1977

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
) CIVIL ACTION NO.
) 73 C 1529 (EN)
 v.)
)
 FRED C. TRUMP, DONALD TRUMP)
 and TRUMP MANAGEMENT, INC.,)
)
 Defendants.)
 _____)

AFFIDAVIT

WASHINGTON)
) ss
 DISTRICT OF COLUMBIA)

DONNA F. GOLDSTEIN, being duly sworn, deposes and
says:

1. I am an attorney in the Civil Rights Division of
the Department of Justice and one of the counsel for the
United States in the above-styled action. I am a member of
the bar of the State of Pennsylvania. I make this affidavit
in response to defendants' motion and supporting papers which
accuse me of threatening prospective witnesses and of other
improper conduct in the discharge of my responsibilities in
this case.

2. I have read the affidavits of Carol R. Falcone and
Thomas Miranda and the signed statements of Paul and Paula
Ziselman. While I interviewed each of these individuals to
determine if they had information pertinent to this case, I
did not do any of the unlawful or improper things alleged

in their statements, and, on the contrary, interviewed each in a fair and objective way to ascertain the facts. While a complete response to the statements of these individuals must await the hearing on the pending motion I think it important to immediately respond at least briefly, to the principal allegations, and I do so as follows:

(a) I never harassed Ms. Falcone, nor did I threaten her with perjury, jail, or with anything else. I did not accuse her of any misconduct with regard to her business or money, or of dating Donald Trump, and have no information about these matters. In fact, I made no accusations at all. I did not tell Ms. Falcone that any phones were tapped, or that she was guilty, and in fact, I have no knowledge of any tapped phones and I am sure that the Civil Rights Division does not tap phones or cause them to be tapped. I did not act in a hostile manner towards her. In fact, the interview appeared to me friendly on both sides at all times.

(b) I never harassed Mr. Miranda, and I never called upon him "to go against Trump Management" by lying. On the contrary, I asked him to tell the truth. I did not tell him that unless he cooperated he would be thrown in jail, nor did I discuss my "ambitions" or winning my case. I did not persecute him, nor did I make "unyielding" threats or any other kind. While Mr. Miranda was reluctant to relate the facts because he expressed fear that Mr. Fred Trump would destroy him, or words to that effect, he described to me some racially discriminatory housing

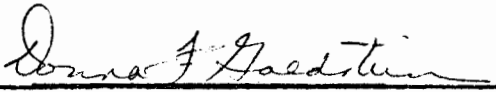
practices in which defendants have engaged. Plaintiff's answers to interrogatories filed in the case of United States v. Fred C. Trump, et al., and sworn to by Elyse Goldweber, previous counsel for plaintiff in this suit, discloses that Mr. Miranda had also provided information about discriminatory practices before I was assigned to the case. My interview with Mr. Miranda seemed to me to be friendly on both sides.

(c) I did not threaten or intimidate Mr. Ziselman, and the contents of his affidavit suggest that there must have been a misunderstanding. Prior to my interview with Mr. Ziselman, the Department of Justice had, in accordance with our normal practice, requested the FBI to interview a number of former Trump employees. Mr. Ziselman was one of them. When I was interviewing Mr. Ziselman, I mentioned that a request had been made for the FBI to contact him, but I told him that I would try and contact the FBI in time to have the agents cancel their interview with him, since it was now unnecessary. After I had completed my interview with Mr. Ziselman, I interviewed a prospective witness for plaintiff who provided details as to a rental transaction with Mr. Ziselman which differed from Mr. Ziselman's account. Accordingly, I telephoned Mr. Ziselman and asked him if he would permit me to see him again for a short time since there were now a few more matters I wished to discuss with him. He refused my request and stated that he considered it to be harassment. I responded that

I was sorry he felt that way, since it was not intended to be harassment.

(d) Mr. Manley's letter of June 13, 1974, and Mr. Cohn's affidavit completely distort the facts leading up to the records inspection in June 1974. Mr. Cohn was not present at the Trump office and has no direct information as to these events, a fact omitted from his affidavit. The facts with respect to this incident are described in detail in Appendix C to plaintiff's Report on Discovery, a copy of which is attached hereto and made a part hereof.

3. In conclusion, I wish to state that the attacks in defendants' papers on my conduct and integrity as an attorney are entirely without foundation. I hope that the matter can be disposed of at the earliest practicable date.


DONNA F. GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Sworn to before me this
2nd day of August, 1974.


NOTARY PUBLIC

My commission expires: *January 31, 1977*

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) CIVIL ACTION NO.
) 73 C 1529 (EN)
)
 FRED C. TRUMP, DONALD TRUMP)
 and TRUMP MANAGEMENT, INC.,)
)
 Defendants.)
 _____)

AFFIDAVIT

STATE OF NEW YORK)
) ss
 COUNTY OF NEW YORK)

I, ELYSE S. GOLDWEBER, being duly sworn do depose and say that:

1. I am presently employed as an examining attorney with the New York City Department of Investigation located at 111 John Street, New York, New York.

2. I was formerly employed as an attorney with the Civil Rights Division, Department of Justice, Washington, D. C. from September 19, 1972 until May 24, 1974.

3. While employed by the Department of Justice, I participated in the preparation and the pre-trial stage of United States v. Fred Trump, et al., Civil Action No. 73 C 1529 (EN).

4. Prior to the institution of the above-mentioned lawsuit, I interviewed Mr. Thomas Miranda who was formerly

employed by Trump Management, Inc. as a superintendent at Kendall Hall Apartments, 41-10 Bowne Street, Flushing, New York. The purpose of this interview was to determine what, if anything, Mr. Miranda knew about discriminatory practices on the part of Trump Management, Inc.

5. Mr. Miranda related to me that Mr. Hyman, Mrs. Williams & a woman called Sophie whose name he did not recall, all of Trump Management, Inc. had instructed him to attach a separate sheet of paper to all applications received from prospective black apartment seekers and that he was to write a big "C" on such attachment so as to indicate to Trump Management, Inc. that the application being considered was from a "colored" person. Furthermore, Mr. Miranda stated to me that he did this every time a black person applied for an apartment.

6. Mr. Miranda also stated to me during this interview that he was afraid that the Trumps would have him "knocked off", or words to that effect, because he told me about their allegedly discriminatory practices. He was reluctant to have his name disclosed.

7. After this interview, which was in all respects friendly, I had no further personal contact with Mr. Miranda. When it became necessary to disclose his identity, I sent a letter in the form attached hereto to him and to the other

persons who had provided information about Trump Management, Inc. The letter was run off on an MTST machine, and while in accordance with Justice Department practice, only one sample copy was retained (the one addressed to Phyllis Kirschenbaum), Justice Department records disclose that an identical letter was sent to Mr. Miranda and fourteen others.

ELYSE S. GOLDWEBER

Subscribed and sworn to before me
this day of August, 1974.

NOTARY PUBLIC

My commission expires:

T. 11/5/73

NOV 5 1973

OSW:RHS:KSG:cmh:er
DJ 173-82-28

Ms. Phyllis Kirschenbaum
1833 Ocean Parkway
Brooklyn, New York 11223

Re: United States v. Fred C. Trump,
Donald Trump and Trump Management, Inc.

Dear Ms. Kirschenbaum:

I am sure that you remember that, during the last few months, I spoke with you about your experiences with Trump Management, Inc. Based on the information you and many other people gave us, the Department of Justice recently filed a lawsuit in the federal court in Brooklyn alleging that Fred C. Trump, Donald Trump and Trump Management, Inc., have violated the Fair Housing Act by engaging in racial discrimination. You may have heard about the court suit already.

In a court suit like this, the persons and the company which are charged with having broken the law have a right to find out the names of the people whom they are charged with discriminating against. Accordingly, if the defendants so request, your name will have to be furnished to them in accordance with court rules.

It may be that the lawyers representing the Trumps will want to interview you. The main thing is that you have nothing to worry about. If you wish to talk to them, you have a right to do so. If you do not wish to talk to them, you have a right not to.

cc: Records
Chrono
Goldweber
~~Trial File~~
Kosack-Hold
Reichard-Hold

Under court rules, the plaintiffs can subpoena you to testify at a "deposition," where you would be under oath and a court reporter would take down what you say. A lawyer for the plaintiffs is present at such a deposition, and what you say cannot be misunderstood since it is taken down by the court reporter word for word. If you would prefer to be interviewed in this way (at a deposition), do not hesitate to tell that to anybody who wants to interview you at your home or place of work.

It may be that a lawyer or a person representing the Truops will want you to sign a statement. You have a right to sign one or not to sign one, as you wish. It is often advisable, however, to obtain a lawyer's help before agreeing to sign a statement, because if you do sign it, then the Truops can use it in the court case in the event you testify later. You might be well advised to hold any statement that anyone asks you to sign in your possession for a few days so that you can think about it and recall all the events that took place. Then, if you decide to sign it, you can at least be sure that you have had a chance to remember everything. Also, if you ever do sign a statement, make sure you get to keep a copy for yourself.

If someone representing the Truops does contact you, I would very much appreciate your letting me know right away. Please call me (collect) at (202) 739-4132. If I am unavailable when you call, I will return your phone call as soon as possible. It is very important that you keep me informed about this.

Finally, let me repeat that you have nothing to worry about. You do not have to talk to anyone or sign

any statement. If you do talk to someone or sign a statement, I am sure you will just tell the truth.

Sincerely,

J. STANLEY BOETINGER
Assistant Attorney General
Civil Rights Division

By:

ELYSE S. COLLINSBER
Attorney
Housing Section

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
	)	CIVIL ACTION NO.
v.	)	73 C 1529 (EN)
)	
FRED C. TRUMP, DONALD TRUMP)	
and TRUMP MANAGEMENT, INC.,	)	<u>ORDER TO SHOW CAUSE</u>
)	
Defendants.)	
<hr/>		

The United States having applied to this Court by affidavit for an Order to Show Cause, and it appearing that a hearing is scheduled before this Court on August 16, 1974 to determine motions involving alleged misconduct by one of the attorneys in this action, which alleged misconduct is denied; and it further appearing that expedited discovery is necessary and appropriate, so that this motion may be expeditiously determined in accordance with 42 U.S.C. 3614; and it further appearing that the nature of the respective parties' allegations justifies judicial supervision of depositions relating to the pending motion; and the Court having considered the pertinent submissions,

NOW, THEREFORE, upon the affidavit of FRANK E. SCHWELB and for good and sufficient reason,

IT IS HEREBY ORDERED that defendants show cause, if any there be, in the chambers of this Court at 225 Cadman Plaza, Brooklyn, New York, on August , 1974, at M., or as soon thereafter as counsel may be heard, why

(1) defendants should not be required to answer plaintiff's interrogatories with respect to the pending motion within five days of service thereof; and

(2) the depositions with respect to this motion should not be conducted under the supervision of the Court.

IT IS FURTHER ORDERED that service upon counsel for defendants shall be done by _____ no later than _____, and that this shall constitute good and sufficient service.

IT IS SO ORDERED this _____ day of August, 1974.

United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
) CIVIL ACTION NO. 73 C 1529 (EN)
)
 v.)
)
 FRED C. TRUMP, DONALD TRUMP) MEMORANDUM OF THE UNITED STATES IN
 and TRUMP MANAGEMENT, INC.,) SUPPORT OF THE ENTRY OF AN ORDER
) TO SHOW CAUSE
)
 Defendants.)
)

On or about July 26, 1974, defendants filed a Notice of Motion seeking an adjudication of contempt against Donna F. Goldstein, a Department of Justice attorney assigned to this case, and a "cease and desist" order against the United States. In five affidavits including that of defense counsel Roy Cohn, defendants allege that Ms. Goldstein has, among other things, threatened and sought to influence the testimony of prospective witnesses in this case. The defendants have requested a hearing on this matter on August 16, 1974.

The United States has filed a response supported by affidavits of Frank E. Schwelb, Chief of the Housing Section, Civil Rights Division, Department of Justice, and of Ms. Goldstein denying each and every allegation of improper conduct. In preparation of the

hearing on August 16, 1974, the United States has noticed the depositions of several of the affiants who have made accusations against Ms. Goldstein, as well as of defendant Donald Trump. Brief interrogatories have also been served on counsel for the defendants to determine the pertinent details of any alleged incident of misconduct by plaintiff's attorneys. In addition, the United States has applied for an Order to Show Cause why

(1) defendants should not be required to answer plaintiff's interrogatories with respect to the pending motion within five days of service thereof; and

(2) the depositions should not be supervised by an officer of the Court.

A. Defendants Should Be Required to Respond to the Interrogatories Within Five Days of Service.

Rule 33(b) of the Federal Rules of Civil Procedure vests the Court with discretion to shorten the time permitted for responding to Interrogatories. In this case, defendants have made serious accusations against the United States and, in particular, against one of its counsel, Donna F. Goldstein. They seek to bring the matter on for hearing on August 16, 1974. The United States is entitled to take the depositions of several persons who have information about these charges and to otherwise prepare for the hearing, and cannot do so unless their identities are disclosed.

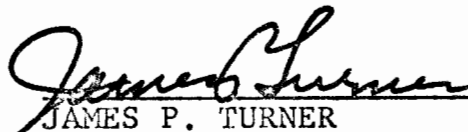
Defense counsel Roy Cohn in his affidavit indicated that only some of the persons who had complained of attorney Goldstein's behavior had signed statements for submission with defendants' pleading. In order to prepare for the hearing and assure that Ms. Goldstein's rights are fully protected, plaintiff is entitled to advance knowledge of the purported case against her. Plaintiff's interrogatories are brief and can be responsively answered in a short time, and there is no reason why an immediate response cannot be forthcoming.

B. The Depositions Should Be Supervised by an Officer of this Court.

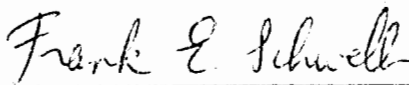
The basic thrust of defendants' motion is that plaintiff's counsel have unduly influenced the testimony of prospective witnesses. Plaintiff contends, however, that the allegations are false and have the effect of preventing the expedited consideration of the case which the statute requires. 42 U.S.C. 3614. The affidavits of two of plaintiff's counsel -- Elyse Goldweber and Donna F. Goldstein -- disclose that at least one of the prospective deponents -- Thomas Miranda -- has on two separate occasions expressed fear of reprisal from defendants if he should testify to the discriminatory practices of which he is aware. Magistrate Cattogio has found the defendants to have been in noncompliance with discovery procedures.

With the issue herein being whether either side has used unlawful tactics vis-a-vis witnesses, it is imperative that their sworn testimony be given without interference or pressure from any source. Accordingly, the depositions should be conducted before an officer of this Court. 4 Moore's Federal Practice §28.02, p. 1915; Fisher v. Harris, 61 F.R.D. 447 (S.D. N.Y. 1973); Shapiro v. Freeman, 38 F.R.D. 308 (S.D. N.Y. 1965); see also First Iowa Hydro Elec. Coop. v. Iowa-Illinois Gas and Elec. Co., 245 F. 2d 613 (8th Cir. 1957), cert. denied 355 U.S. 871 (1957).

JAMES PORTER
Assistant U.S. Attorney
Chief, Civil Division



JAMES P. TURNER
Deputy Assistant Attorney General



FRANK E. SCHWELB, Chief
NORMAN P. GOLDBERG, Attorney
Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

APPENDIX A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
: UNITED STATES OF AMERICA, :
:

Plaintiff, :

MEMORANDUM OF UNDERSTANDING

- against - :

Civil Action No. 73 C 1529
:

FRED C. TRUMP, DONALD TRUMP
and Trump Management, Inc., :

Defendants. :

-----x

Plaintiff has forwarded to defense counsel a proposed decree which is appended hereto as Attachment A. Defense counsel has advised plaintiff's counsel that the decree is satisfactory, subject to the modifications described herein. Plaintiff agrees to a continuance solely on the basis of the representation that this case is settled in principle along the lines stated herein.

The agreed settlement is based on the proposed consent decree forwarded to defense counsel and attached hereto, subject to the following:

(a) Fred Trump and Donald Trump to be dismissed as defendants on the grounds that a decree against Trump Management, Inc. binds them as officers, agents, etc. under Rule 65, F.R. Civ.P., and that it would therefore be superfluous to retain them as named defendants. Language of certain provisions amended accordingly. Provisions in decree requiring assumption of responsibility by Fred and Donald Trump remain in effect, but may be phrased in terms of the offices held by them without mention of their names.

(b) The provision on pp. 4-5 involving the renting of apartments to persons on public assistance shall be omitted as stated. Under the income standards of Part IV, of the proposed decree, a footnote shall be included indicating that all income sources of any applicant, including public assistance payments, alimony, child support and wife's income shall be considered in determining the financial eligibility of any applicant.

(c) The provision on pp. 6-7 involving wife's income to be summarized, with prefatory language eliminated, and included in general injunctive provisions in Part I of the decree as set forth in Attachment B hereto.

(d) Procedural history on page 2 to be eliminated.

(e) Equal opportunity statements in advertising (P. 11) to be eliminated as to ads of five lines or less. Defendants' advertising policies presently in use shall not be changed because of this provision. Defendants shall not unreasonably substitute or change the number of ads of six lines or more or the number of display advertisements presently used.

(f) On p. 12, language as to advertisements in minority media clarified to include one monthly ad in black press and one monthly ad in Spanish-speaking press.

(g) On p. 12, cross-section of Trump apartments to be advertised in minority media clarified to include only buildings with vacancies.

(h) On p. 13, 3-day period for the Open Housing Center to refer applicants clarified to commence when notification to the Center is completed. Open market to be defined to mean rental to anyone not referred by fair housing group.

(i) Objective standards, including rental qualifications, as to all buildings and uniform procedures used to determine them, all to be based on and no more stringent than past practices, and to be prepared by defendants and negotiated with plaintiff.

(j) On p. 17, inclusion of provision prohibiting preference for persons referred by present tenants.

(k) Provision on p. 17 prohibiting the use of a waiting list is based on defendants' current practices. At defendants' option, a uniform waiting list procedure at all buildings may be included in the decree.

(l) Provision shall be included allowing defendants to be notified of complaints from alleged victims of discrimination.

(m) Under the affirmative employment provisions, reference to employees shall be clarified to include only superintendents, leasing agents, rental agents, and those in the central office who review applications for tenancy, credit references or otherwise participate in the rental process.

(n) Provision explaining that standards for rental are subject to appropriate modification upon ruling of Boyd v. Lefrak now pending before the Court of Appeals for the Second Circuit.

(o) Provision dissolving affirmative provisions of the decree three years from the date of the entry of the order upon motion by the defendants with opportunity for objections by the plaintiff.

If no final consent has been executed on the proposed decree to be submitted to the Court by February 14, 1975, the parties

shall so inform the Court. The parties shall then seek the assistance of the Court to resolve any dispute arising solely out of disagreement as to the meaning of any proposed change referred to in the Memorandum of Understanding. All other provisions in the attached Consent Decree and those not in dispute as to meaning in the Memorandum of Understanding shall be contained in their entirety in the final Consent Decree.

If for any reason a Consent Decree is not agreed upon and entered by February 24, 1975 the parties shall seek a new trial date. The parties have exchanged witness lists in accordance with the Order of this Court. The plaintiff's list of witnesses is appended hereto as Attachment C. The defendants' witnesses shall be as follows:

Fred Trump

Donald Trump

Althea Gibson

A representative of the NAACP

Agreed upon this
20th day of January 1975.

For the Defendants

Roy M. Cohn as Attorney
Donald Trump *for all defendants*

Roy M. Cohn
Roy M. Cohn

For the Plaintiff

Donna Goldstein
Donna Goldstein

Norman P. Goldberg
Norman P. Goldberg

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
) CIVIL ACTION NO. 73 C 1529
)
 v.) CONSENT ORDER
)
)
 FRED C. TRUMP, DONALD TRUMP)
 and Trump Management, Inc.)
)
 Defendants.)
 _____)

This action was instituted by the United States of America on October 15, 1973, pursuant to the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq. Plaintiff alleges that the defendants have engaged in a pattern and practice of discrimination in violation of the Fair Housing Act of 1968 by refusing to rent dwellings and by otherwise making dwellings unavailable to black persons on account of race and color, in violation of 42 U.S.C. 3604(a); by discriminating in the terms and conditions of rental of dwellings because of race and color in violation of 42 U.S.C. 3604(b); by making statements with respect to the rental of dwellings which indicate a preference, limitation and discrimination based on race and color in violation of 42 U.S.C. 3604(c); and by representing to persons on account of race and color that dwellings were not available for inspection and rental when such dwellings were in fact so available, in violation of 42 U.S.C. 3604(c).

In December 1973, defendants filed a counterclaim against plaintiff for \$100,000,000 in the nature of defamation or malicious prosecution. The counterclaim was dismissed for lack of jurisdiction of the subject matter. The defendants also filed motions to dismiss the Complaint and for a more definite statement, which motions were denied.

On July 26, 1974, defendants filed a motion to have one of plaintiff's counsel held in contempt of court for alleged misconduct and for a protective order against the United States. On October 24, 1974, after the Court heard the evidence adduced in support thereof, the motion was denied in all respects and stricken from the record, the Court explicitly finding that there was no credible evidence of improper conduct on the part of the United States or any of its attorneys or agents.

Stripped to its essentials, the claim of the United States is that the defendants have failed and neglected to exercise their affirmative and nondelegable duty under the Fair Housing Act to assure compliance by their subordinates, with the result that equal housing opportunity has been denied to substantial numbers of persons and that defendants' subordinates have failed to carry out their obligations under the Act. Defendants claim that the number of violations by their agents is insubstantial, and that any discrimination was not done at the direction of the individual defendants. Irrespective of the merits of the Complaint, however, the defendants Fred C. Trump and Donald Trump are now prepared

affirmatively to assume and carry out the responsibility for assuring that their employees will comply with the Act and will promote equal opportunity. Accordingly, the United States is prepared to resolve this case by the entry of a consent decree.

I

INJUNCTION

It is hereby ORDERED, ADJUDGED AND DECREED that the defendants, their officers, agents, employees, successors, and all persons in active concert or participation with any of them, are hereby permanently enjoined from:

GENERAL INJUNCTIVE PROVISIONS

1. Refusing to sell or rent, refusing to negotiate for the sale or rental of, or otherwise making unavailable or denying any dwelling to any person on account of race, color, religion, sex or national origin.

2. Discriminating against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex or national origin.

3. Making, printing or publishing, or causing to be made, printed, or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex or national origin, or an intention to make such preference, limitation or discrimination.

4. Representing to any person because of race, color, religion, sex or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

5. Influencing the residential choice of any person on account of race, color, religion, sex or national origin.

6. Coercing, threatening, or interfering with, or attempting to coerce, threaten or interfere with any person in the exercise or enjoyment of the right to equal housing opportunity protected by the Fair Housing Act of 1968, or in the exercise or enjoyment of the right to assist others to secure equal housing opportunity.

7. Engaging in any act or practice which has the purpose or the effect of denying or abridging the right to equal housing opportunity protected by the Fair Housing Act.

II

RENTAL TO PERSONS RECEIVING PUBLIC ASSISTANCE

The great majority of persons on public assistance in the New York area are black or of Puerto Rican ancestry. Consequently, the blanket exclusion from tenancy of otherwise qualified persons receiving public assistance has a racially discriminatory effect, and is legally impermissible in the absence of a showing of business necessity. No business necessity exists for excluding from residence any person receiving public assistance who, through a

guarantor or otherwise, has the reasonable capacity to pay the rent and who meets the other objective nonracial standards set forth herein.

Affidavits filed in this action by defendants and their counsel, and press reports of certain out-of-court statements, disclose past reluctance on the part of defendants to rent to persons receiving public assistance, which reluctance has been communicated to the public through the media. The predictable effect of such communication has been to chill the exercise by persons receiving public assistance of the right to equal housing opportunity. It is now, however, the stated policy of the defendants to rent to persons receiving public assistance if they are able to meet the objective requirements which are to be nondiscriminatorily applied to all applicants for rental. Accordingly, it is ORDERED that defendants, their officers, agents, employees and successors, and all those in active concert or participation with them or with any of them, are permanently enjoined from applying different or more stringent standards of sale or rental to any person on account of his being or having been a recipient of public assistance, and from otherwise discriminating against any such person with respect to his housing opportunities.

The parties recognize that there is pending before the Court of Appeals for the Second Circuit defendant's appeal from the decision of Mr. Justice Clark, retired in Boyd v. The Lefrak Organization, No. 71-1433, P.H.E.O.H. Rptr. para. 13,650 (E.D. N.Y. April 15, 1974). That case

involves important issues regarding the obligation of private landlords to rent to persons receiving public assistance. While neither party to the present action is a party to the Boyd litigation, the ultimate decision in Boyd is likely to affect the controlling law with respect to this issue. Accordingly, the parties agree, and it is ORDERED that either party may apply to this Court for appropriate modification of this Order in the light of further developments in the Boyd litigation.

WIFE'S INCOME

In August, 1974, 42 U.S.C. 3604 was amended to prohibit discrimination in housing based on sex as well as that based on race, color, religion or national origin. Prior to that amendment, sex discrimination was prohibited by New York law. A landlord's refusal to consider a wife's income equally with that of her husband in determining whether the family has the financial capacity to pay the rent constitutes unlawful discrimination based on sex, in violation of 42 U.S.C. 3604.

During the course of depositions in this action, which preceded the August, 1974 amendment to the Fair Housing Act, the individual defendants indicated a lack of certainty as to whether the wife's income was counted in determining an applicant's capacity to pay the rent, and, if it was counted at all, whether it was counted fully or partially. In order to eliminate any doubt with respect to this question, it is ORDERED that defendants, their officers, agents, employees and successors, and all those

in active concert or participation with them or with any of them, are permanently enjoined from failing or refusing to give full and equal consideration to the income of a wife in determining the rental qualifications of a married couple or the capacity of that couple to pay the rent.

ASSUMPTION OF RESPONSIBILITY BY PRINCIPALS
AND TRAINING PROGRAM FOR AGENTS AND EMPLOYEES

Trump Management Inc. controls many thousands of rental units in the New York area and elsewhere, and its activities therefore have a major impact on housing opportunities. The individual defendants therefore occupy a position of leadership in the real estate community and can, by their example, influence the activities not only of their own agents and employees but also of many others. The Fair Housing Act prohibits conduct which is discriminatory in its effect, regardless of motivation, and violations of the Act can result from thoughtlessness and lack of information, as well as from deliberate discrimination. The individual defendants recognize that they have both the responsibility to assure nondiscrimination by their agents and employees and a significant opportunity to promote equal housing opportunity generally in the New York area and elsewhere. They are prepared to carry out that responsibility and to take advantage of that opportunity.

Accordingly, it is ORDERED as follows:

A. Defendants Fred C. Trump and Donald Trump shall forthwith

(1) thoroughly acquaint themselves personally on a detailed basis with all of the obligations of the defendants under the Fair Housing Act of 1968, as amended; under state and municipal civil rights laws; under pertinent Regulations and Guidelines of the Department of Housing and Urban Development and other appropriate agencies; and under this Order;

(2) Take steps to assure that their principal assistants and officers similarly familiarize themselves with their obligations; and

(3) Personally undertake to assure that the training program set forth herein is successfully carried out.

B. Within thirty (30) days of the entry of this Decree, the defendants shall conduct and complete an educational program for all employees with rental or employment responsibilities, who have contact with prospective tenants, provide information to the public about rental, or accept or process applications for rentals, or who are engaged in any manner in the employment process, to inform them of the provisions of this Decree, and their duties under the Fair Housing Act of 1968. Such program shall include:

(1) Furnishing to each such agent and employee a letter summarizing the terms of this Decree and of the Fair Housing Act as it applies to the employee.

(2) Informing each such agent and employee, in person or by general meeting, of the provisions of this Decree and of duties of the Company and its agents and employees under the various applicable Fair Housing Acts. Each such agent and employee shall be advised that his failure to comply with the provisions of this Decree shall subject him to dismissal or other disciplinary action, and to sanctions for disobedience of this order.

(c) Securing a signed statement from each such agent that he has read the letter mentioned above and received the instructions described in the preceding paragraph and forwarding a copy of each such signed statement to plaintiff.

Each new agent and employee shall be instructed in accordance with the procedures set out above and shall be required to sign a statement to the effect that he has been so instructed and will comply with such instructions within ten (10) days following the initial date of employment. Copies of all signed statements will be furnished to plaintiff upon execution.

III

AFFIRMATIVE PROGRAM

It is further ORDERED that the defendants shall
*/
forthwith take the following steps to adopt and implement

*/ The defendants' obligations to implement each provision of this Order for affirmative action shall begin ten (10) days following the entry of this Order, unless otherwise specified herein.

an affirmative program aimed at ensuring compliance with the Fair Housing Act of 1968, and at overcoming the effects of any previous actions by the defendants which had the purpose or effect of impairing rights secured by the Fair Housing Act:

A. Notification to the Community of Defendants'
Nondiscriminatory Policy

1. Notify the following groups in the New York Metropolitan Area, in writing, with copies to counsel for plaintiff that apartments owned or managed by the defendants are available to all qualified persons without regard to race, color, religion, sex or national origin.

Included in such letter shall be a full synopsis of the rental standards and procedures outlined in Part IV, below, and a general statement of present and anticipated vacancies in Trump apartment buildings in the New York Metropolitan Area. The parties shall agree on the text of an appropriate letter prior to its mailing.

- a. (Parties to agree on identities of groups.)
- b. "
- c. "

Subsequently, defendants shall mail to each of the organizations, named above a copy of its weekly Central Listing of vacancies described infra in Part IV of this decree. This mailing shall be done on the day the list is made.

2. Post and maintain fair housing signs in a form approved by the Secretary of the Department of Housing

*/

and Urban Development (HUD) in all offices of the defendants where there is rental activity or public contact.

3. Implement an advertising program aimed at informing the nonwhite community of defendants' nondiscriminatory rental policy. The defendants shall

(a) Include, in all advertising, in newspapers, telephone directories, radio, television, and other media, and on all billboards, signs, pamphlets, brochures, and other promotional literature the words "Equal Housing Opportunities" and the fair housing logo. These words and the logo shall be prominently placed and easily legible. **/ In addition, all advertising placed by the Company or its agents shall conform to the practices recommended in the Department of Housing and Urban Development advertising guidelines, as published in 37 Fed Reg., pp. 6700-02, on April 1, 1972. A copy of these guidelines is attached as Appendix "B" to this Order.

(b) Allocate a reasonable proportion of their advertising budget to advertising in media

*/ See the pertinent HUD regulation, 37 FR 33429 (a copy attached hereto as Appendix A).

**/ In radio and television advertising, the words "equal housing opportunities" shall be used and shall be easily audible.

directed primarily to the black and Puerto Rican communities. The parties have agreed that two monthly display advertisements in */ the black or Puerto Rican press, together with allocation of 10% of defendants' radio advertising budget to black-oriented and Spanish language stations, shall meet the requirements of this provision. All advertisements of Trump buildings in minority media shall advertise a full cross-section of Trump buildings, and shall not stress or give undue emphasis to buildings with **/ substantial minority occupancy.

4. Provide written notification to each firm, association, company, corporation, or other person or organization engaged by defendants or any of them to act as referral agency, apartment locating service, credit checking company, or management company that apartments owned or managed by the defendants are available to all qualified persons without regard to race, color, religion, sex or national origin. Each such notification shall also advise the recipient of defendants' objective standards and procedures for rental.

*/ The parties agree that the placement of such advertisements in the Amsterdam News and El Diario will satisfy this requirement.

**/ If the listed apartments do not include all Trump buildings, the buildings listed shall be rotated with each ad so that the same apartment buildings are not continuously advertised under this subsection.

B. Program of Providing Listings for Minority Apartment Seekers

For two years after the entry of this Order, or until further Order of this Court, defendants shall notify the Open Housing Center of the New York Urban League, 150 Fifth Avenue, New York, New York, 10003, of every fifth available apartment in each apartment building owned and/or managed by the defendants which has a black tenancy of less than ten percent^{*/}, at least three days prior to placing that apartment on the open market. During this three day period the Open Housing Center shall have the opportunity to refer qualified applicants to the defendants for the purpose of renting the apartment.

After three days if no qualified applicant referred by the Center has filed an application seeking to rent the apartment, the apartment may be placed on the open market to be rented in defendants' normal business custom without regard to race, color, religion, sex or national origin.

C. Affirmative Employment Program

The defendants shall recruit, hire, assign, promote and transfer employees and agents without regard to race, color, religion, sex or national origin and will endeavor to place blacks and other nonwhite persons in supervisory and professional positions as vacancies for which they are qualified arise.

^{*/} The requirements of this provision need not be followed for apartment buildings which presently have or in the future reach a black occupancy rate of 10%. For these apartment buildings, apartments shall continue to be rented without regard to race, color, religion, sex or national origin.

Pursuant to this program, the defendants shall take the following steps:

1. Place advertisements on a regular basis in a newspaper that primarily serves the black community describing the available work opportunities. ^{*/}

2. Prominently include in all advertising of available jobs the slogan "Equal Opportunity Employer." ^{**/}

3. Display an equal employment opportunity poster in a prominent place clearly visible to prospective agents, employees, and applicants for employment in each office of the defendants where applications for employment are taken. ^{**/}

4. Notify in writing, each labor union whose members are part of defendants' work force of the terms of Part III (c) of this Decree and that prospective employees are to be referred without regard to race, color, religion, sex or national origin.

In recruiting and hiring nonwhite employees, the defendants shall not require that they possess qualifications for any job or position more exacting than those which were in effect with respect to white employees before the institution of this action.

IV

IMPLEMENTATION OF OBJECTIVE RENTAL STANDARDS AND PROCEDURES

In order to assure nondiscriminatory selection and assignment of tenants and to assure equal opportunity in

*/ The parties agree that the placement of such advertisements in the Amsterdam News and El Diario will satisfy this requirement.

**/ This poster shall be in the form, size and prominence approved by the United States Department of Labor and the Equal Employment Opportunity Commission.

housing at each building owned or managed by defendants or any of them, defendants shall adopt and implement the following standards and procedures:

A. Standards

(1) Income

One week's gross salary from all sources ^{*/} must be at least equal to one month's rent.

(2) Occupancy

(Defendants to make a proposal based on their current standards.)

^{**/}

B. Procedures

1. Application Procedure

a. Applications for tenancy will be received at the apartment building or complex where the tenant is applying for an apartment. Applications shall be received by Superintendents or rental agents authorized by the defendants to accept applications, and instructed in the requirements of this Order and of the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq. Applications shall be accepted from all persons wishing to apply and the superintendent or agent shall make no subjective judgment on the acceptability of a prospective tenant.

*/ This shall include alimony, child support, welfare payments, wife's income, etc. The parties recognize that **the validity of this requirement may be affected by appellate decisions in Boyd v. Lefrak, supra.** Either party may apply for a modification or revision of this provision in the light of future developments in that case.

**/ These procedures are based on defendants' past practices, as described during discovery.

b. The superintendent or rental agent shall review the application for completeness and shall require a security deposit of one month's rent and a W2 form (or reasonable substitute therefor) from all applicants. The agents shall then submit the deposit, W2 form and application, for review and determination to one of the defendants' two main offices. No superintendent or rental agent shall have the authority to make a determination on the acceptability for tenancy of an applicant.

c. A uniform credit and employment check as described in Appendix "A" hereto shall be conducted with respect to each applicant.

d. Applications shall be reviewed and a determination of acceptability shall be made by the Section Managers employed in the defendants' main offices.

e. Each applicant shall be informed within five (5) business days whether or not he or she has been accepted for tenancy. If rejected, the applicant shall be informed of the reason for rejection, and of the specific objective standard which he has failed to meet.

2. Providing Rental Information to Apartment Seekers

a. Defendants shall maintain at their central offices at 2611 West 2nd Street, Brooklyn, New York and 2064 Cropsy Avenue, Brooklyn, New York, and at Highlander Hall, Edgerton Hall, Patio Gardens and Lawrence Gardens, a Central Listing, to be compiled on a weekly basis, of each currently vacant or available apartment in the New York area, and of each apartment expected to be vacant or available in the New York area within the next thirty

days. This list, shall include the type of apartment, the number of rooms, the monthly rent, and date of availability and shall be shown to all persons inquiring about available apartments. Defendants shall also maintain at each of their buildings a similar list of the apartments vacant at that building.

b. Apartments which are available for rental and listed on the apartment availability list (2(a) above) shall be shown to all interested inquirers by an authorized agent of the defendants.

c. Inquirers shall be uniformly informed of the qualifications for rental, including the income, security deposit and W2 form requirements.

d. No waiting list will be maintained at any of defendants' offices or apartment buildings. Rental will be on a first-come, first-served basis when apartments are available for rental.

V

REPORTING REQUIREMENTS

It is further ORDERED that three (3) months after the entry of this Decree, and thereafter three (3) times per year the defendants shall file with the Court and serve on counsel for the plaintiff a report containing the following information for the following apartment buildings owned and/or managed by the defendants:

1. Argyle Hall
2. Westminster Hall
3. Fountainbleu Apartments

4. Lawrence Gardens and Lawrence Towers
5. Sea Isle Apartments
6. Beachhaven Apartments
7. Shorehaven Apartments
8. Belcrest Apartments
9. Highlander Hall
10. Saxony Hall
11. Clyde Hall
12. Edgerton Apartments
13. Winston Hall
14. Sussex Hall
15. Oakdale Apartments
Oceanaire Apartments
(Norfolk, Virginia)

a. The number of persons, by race, ^{*/}making inquiry in person about the availability or terms of rental of an apartment during the preceding reporting period and the number by race, that:

1. made inquiry;
2. were offered an application;
3. filled out an application;

*/ As visually observable.

4. submitted an applicant with deposit;
5. were accepted for occupancy;
6. were rejected;
7. withdrew applications;
8. had applications pending at the end of the reporting period.

b. A report reflecting the applications for tenancy submitted during the preceding reporting period, including the following information for each person submitted an application:

1. name, address, business and home telephone number, and race;
2. date of application;
3. whether a deposit was received;
4. date notified of acceptance or rejection;
5. weekly income of applicant and monthly rent of apartment sought;
6. if accepted, apartment chosen;
7. if rejected, reason therefor;
8. name of person or persons who decided to accept or reject the application;
9. if neither accepted nor rejected, status or disposition of application.

For each rejected nonwhite applicant, the report shall include a detailed statement of the reason(s) for rejection and supporting information.

c. A list of vacancies during the preceding quarter, including the date the apartment was placed on

*/
the market and the date each apartment was rented or otherwise committed for rental.

d. Reports filed pursuant to this Order shall also include the current statistics with respect to the race of tenants in each apartment building owned or managed by the defendants, and an account of the steps taken during the preceding reporting period to implement the program outlined in Sections I and II above, including:

1. Copies of all letters sent to apartment locators and credit checking companies, Fair Housing groups, and labor unions pursuant to **Parts II and III of this Decree.**
2. Representative copies of all newspaper advertisements placed since the entry of this Order, the name of each newspaper in which the advertisement was placed, and the date of each advertisement.
3. The name, race, position and office assignment of each rental agent, superintendent and main office employee employed as of the date of the entry of this Order, an assurance that the educational program required by Part I has been conducted, and copies of all signed statements obtained in accordance with Part I of this Decree. If any rental agent refuses to

*/ Including where appropriate, the date the Open Housing Center was contacted concerning the apartments' availability in accordance with Part II above.

sign such a statement the defendants shall include a full statement of all pertinent circumstances and of any action taken by them in relation thereto.

VI

RECORDKEEPING PROVISIONS

IT IS FURTHER ORDERED that the defendant shall for three years following the entry of this Decree, make and preserve the following records for all apartment buildings owned or managed by them:

1. The name, address, telephone number and date and time of contact of each person inquiring in person about the availability or terms of rental of an apartment therein, ^{*/} the size of apartment sought, if known, and whether:

- A. he was offered an application;
- B. he filled out an application;
- C. he submitted an application with deposit.

2. A detailed record of all action taken on each inquiry and application and the reasons for such action.

3. A detailed record of all steps taken by the defendants in ascertaining the acceptability for tenancy of the applicant and the name of the employee who took such steps or who approved or rejected the application.

*/ This may be accomplished by maintaining a guest register at each apartment building owned by the defendants.

4. All records which are the source of, or contain any of the information pertinent to defendants' obligations under this Order. Representatives of the plaintiff shall be permitted to inspect and copy all pertinent records of the defendants at any and all reasonable times, provided, however, that the plaintiff shall endeavor to minimize any inconvenience to the defendants from the inspection of such records.

VII

It is further ORDERED that for a period extending three years from the entry of this Decree, the defendants shall, at least twenty (20) days prior to the event, report to counsel for the plaintiff:

1. Any new ownership or management interests in residential property, acquired by the defendants.
2. The divestment through transfer or sale, of any ownership or management interests in residential property.

VIII

Each party shall bear its own costs.

The Court shall retain jurisdiction of this action for all purposes until the termination of this Order.

ORDERED THIS day of , 1975.

EDWARD NEARER
United States District Judge

The undersigned apply for and consent to the entry of this Order:

For the Defendants:

For the Plaintiff:

I

INJUNCTION

It is hereby ORDERED, ADJUDGED AND DECREED that the defendants, their officers, agents, employees, successors, and all persons in active concert or participation with any of them, are hereby permanently enjoined from:

1-6 see the Proposed Decree, appended as Attachment A.

7. Engaging in any act or practice which has the purpose or the effect of denying or abridging the right to equal housing opportunity protected by the Fair Housing Act. In this connection, defendants shall not, in determining the income qualification for rental of any person, family, or other group of persons, fail or refuse to fully count a woman's total income, including salary, wages, alimony, support payments or other income from whatever source received.

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,) CIVIL ACTION NO. 73 CIV 1529
)
 v.)
)
 FRED C. TRUMP, et al.) PLAINTIFF'S PROPOSED
) LIST OF WITNESSES
 Defendants.)
)
 _____)

In accordance with the Order of the Court, the United States submits the following names of persons who are expected to be called as witnesses. This list does not include the names of any rebuttal witnesses who may be called to rebut testimony by defendants' witnesses nor does it include any of defendants' officers or managing agents who may be called as adverse witnesses.

Walter Abramson, an official of the City of New York Commission on Human Rights, or some other agent of that agency to authenticate, if necessary, certain records.

Susan Bernstein

Beverly Best

Kalman Biczó

Saul Blate

Mae Brown

Maxine Brown

Ronald and Agnes Bunn

Stephanie Bush

Barbara Campbell, a New York Times Reporter, or
another reporter present at the
press conference at which defendants'
announced the filing of a \$100
million counterclaim.

James Chestnut

Solomon Cohen, an agent of the Division of Human
Rights, State of New York, or some
other agent of that agency to
authenticate, if necessary, certain
records.

Peter Connan

Terrence Cox

David DeReinzus

Henrietta Davis

Jack Fogler

Edwardo Galdames

Annette Gandy

Monique Golden

Elyse Goldweber

Adolpho Gomez (testified by deposition)

Allan Gross

Charles Hall

Robert Edward Harris

Lorraine Haynes

Rick and Gemma Helms

Donald Herman

Betty Hoerber

Alfred and Sheila Hoyt

Godfrey Jacobs

Pritcharella Johnson

George Sim Johnston

Phyllis Kirschenbaum

Mr. & Mrs. Kenneth Laitman

New York Times employee to verify authenticity of
certain pages of classified advertisements
(if defendants unwilling to stipulate
to authenticity of reproduction of
those pages)

Carl Nickelson

Dorothy Orr

Paul and Hope Rudder

Muriel Salzman

Ruth Sarver

Mrs. Harry Schefflin

Michael Scott

Muriel Silberberg

Phyllis Spiro

Ralph Stein

James Gordon White

Respectfully submitted,

FRANK E. SCHWELB
NORMAN P. GOLDBERG
DONNA GOLDSTEIN
Attorneys, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

CERTIFICATE OF SERVICE

I hereby certify that on January , 1975, copies
of the foregoing Plaintiff's Proposed List of Witnesses
were served on counsel for defendants by hand:

Roy M. Cohn, Esquire
Saxe, Bacon, Bolan & Manley
39 E. 68th Street
New York, New York 10021

NORMAN P. GOLDBERG
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530



APPENDIX B

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
)	
Plaintiff,	)	CIVIL ACTION
	)	NO. 73 C 1529
)	
v.)	
)	
TRUMP MANAGEMENT, INC.,	)	PROPOSED CONSENT
	)	ORDER
Defendant.)	
)	
)	
)	

This action was instituted by the United States of America on October 15, 1973, pursuant to the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq. Plaintiff alleges that the defendant has engaged in a pattern and practice of discrimination in violation of the Fair Housing Act of 1968 by refusing to rent dwellings and by otherwise making dwellings unavailable to black persons on account of race and color, in violation of 42 U.S.C. 3604(a); by discriminating in the terms and conditions of rental of dwellings because of race and color in violation of 42 U.S.C. 3604(b); by making statements with respect to the rental of dwellings which indicate a preference, limitation and discrimination based on race and color in violation of 42 U.S.C. 3604(c); and by representing to persons on account of race and color that dwellings were not available for inspection and rental when such dwellings were in fact so available, in violation of 42 U.S.C. 3604(d).

Stripped to its essentials, the claim of the United States is that the defendant and its principal officers have failed and neglected to exercise their affirmative and non-delegable duty under the Fair Housing Act to assure compliance by certain of their subordinates, with the result that equal housing opportunity has been denied to a number of persons and that certain of defendant's subordinates have failed to carry out their obligations under the Act. Plaintiff contends that the insubstantial number of blacks presently residing in most Trump buildings supports these allegations. Defendants claim that the number of violations by their agents is insubstantial, and that any discrimination was not done at the direction of the principals of the defendant corporation. Moreover, defendant contends that plaintiff has alleged only a few incidents of discrimination over a period of fourteen years and that there are a significant number of blacks presently residing in Trump apartment buildings. Irrespective of the merits of the complaint, however, the principal officers of defendant Trump Management, Inc., are now prepared affirmatively to assume and carry out the responsibility for assuring that their employees will comply with the Act and will promote equal opportunity. Accordingly, the United States is prepared to resolve this case by the entry of a consent decree.

INJUNCTION

It is hereby ORDERED, ADJUDGED AND DECREED that the defendant, its officers, agents, employees, successors and all persons in active concert or participation with any of them, are hereby permanently enjoined from:

GENERAL INJUNCTIVE PROVISIONS

1. Refusing to sell or rent, refusing to negotiate for the sale or rental of, or otherwise making unavailable or denying any dwelling to any person on account of race, color, religion, sex or national origin.
2. Discriminating against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex or national origin.
3. Making, printing, or publishing, or causing to be made, printed, or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex or national origin, or an intention to make such preference, limitation or discrimination.
4. Representing to any person because of race, color, religion, sex or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
5. Influencing the residential choice of any person on account of race, color, religion, sex or national origin.

6. Coercing, threatening, or interfering with, or attempting to coerce, threaten or interfere with any person in the exercise or enjoyment of the right to equal housing opportunity protected by the Fair Housing Act of 1968, or in the exercise or enjoyment of the right to assist others to secure equal housing opportunity.

7. Engaging in any act or practice which has the purpose or the effect of denying or abridging the right to equal housing opportunity protected by the Fair Housing Act. In this connection, defendants shall not, in determining the income qualification for rental of any person, family, or other group of persons, fail or refuse to fully count a woman's total income, including salary, wages, alimony, support payments or other income from whatever source received.

II

ASSUMPTION OF RESPONSIBILITY BY PRINCIPALS OF TRUMP MANAGEMENT INC., AND TRAINING PROGRAM FOR AGENTS AND EMPLOYEES

Trump Management Inc., controls many thousands of rental units in the New York area and elsewhere, and its activities therefore have a major impact on housing opportunities. The company therefore occupies a position of leadership in the real estate community and can, by its example, influence the activities not only of its own agents and employees but also of many others. The Fair Housing Act prohibits conduct which is discriminatory in its effect, regardless of motivation, and violations of the Act can result from thoughtlessness and lack of information, as

well as from deliberate discrimination. The principal officers of Trump Management, Inc., recognize that they have both the responsibility to assure nondiscrimination by their agents and employees and a significant opportunity to promote equal housing opportunity generally in the New York area and elsewhere. They are prepared to carry out that responsibility and to take advantage of that opportunity.

Accordingly, it is ORDERED as follows:

A. The principal officers of Trump Management, Inc., presently Donald Trump and Fred C. Trump shall forthwith

(1) thoroughly acquaint themselves personally on a detailed basis with all of the obligations of the defendant under the Fair Housing Act of 1968, as amended and as judicially interpreted; under state and municipal civil rights laws; under pertinent Regulations and Guidelines of the Department of Housing and Urban Development and other appropriate agencies; and under this Order;

(2) Take steps to assure that their principal assistants and officers similarly familiarize themselves with their obligations; and

(3) Personally undertake to assure that the training program set forth herein is successfully carried out.

B. Within thirty (30) days of the entry of this Decree, the Defendant its principal officers shall conduct and

complete an educational program for all employees with rental or employment responsibilities, who have contact with prospective tenants, provide information to the public about rental, or accept or process applications for rentals, or who are engaged in any manner in the employment process, to inform them of the provisions of this Decree, and their duties under the Fair Housing Act of 1968. Such program shall include:

(1) Furnishing to each such agent and employee a letter summarizing the terms of this Decree and of the Fair Housing Act as it applies to the employee.

(2) Informing each such agent and employee, in person or by general meeting, of the provisions of this Decree and of duties of the Company and its agents and employees under the various applicable Fair Housing Acts. Each such agent and employee shall be advised that his failure to comply with the provisions of this Decree shall subject him to dismissal or other disciplinary action, and to sanctions for disobedience of this Order.

(3) Securing a signed statement from each such agent that he has read the letter mentioned above and received the instructions described in the preceding paragraph and forwarding a copy of each such signed statement to plaintiff.

Each new agent and employee shall be instructed in accordance with the procedures set out above and shall be required to sign a statement to the effect that he has been so instructed and will comply with such instructions within ten (10) days following the initial date of employment. Copies of all signed statements will be furnished to plaintiff upon execution.

III

AFFIRMATIVE PROGRAM

It is further ORDERED that the defendant shall forthwith*/ take the following steps to adopt and implement an affirmative program aimed at ensuring compliance with the Fair Housing Act of 1968, and at overcoming the effects of any previous actions by the defendant which had the purpose or effect of impairing rights secured by the Fair Housing Act:

A. Notification to the Community of Defendant's Nondiscriminatory Policy

1. Notify the following groups in the New York Metropolitan Area, in writing, with copies to counsel for plaintiff that apartments owned or managed by the defendant are available to all qualified persons without regard to race, color, religion, sex or national origin. Included in such letter shall be a full synopsis of the rental standards and procedures outlined in Part IV, below, and a general statement of present and anticipated vacancies in Trump apartment buildings in the New York Metropolitan area. The parties shall agree on the text of an appropriate letter prior to its mailing.

*/ The defendant's obligations to implement each provision of this Order for affirmative action shall begin ten (10) days following the entry of this Order, unless otherwise specified herein.

a. (Parties to agree on identities of groups).

b. "

c. "

Subsequently, defendant shall mail to each of the organizations, named above a copy of its weekly Central Listing of vacancies described infra in Part IV of this decree. This mailing shall be done on the day the list is made.

2. Post and maintain fair housing signs in a form approved by the Secretary of the Department of Housing and Urban Development (HUD)*/ in all offices of the defendant where there is rental activity or public contact.

3. Implement an advertising program at informing the nonwhite community of defendant's nondiscriminatory rental policy. The defendant shall

a. Include, in all advertising,**/ in newspapers, telephone directories, radio, television, and other media, and on all billboards, signs, pamphlets, brochures, and other promotional literature the words "Equal Housing Opportunities" and the fair housing logo. These words and the logo

*/ See the pertinent HUD regulation, 37 F.R. 33429 (a copy attached hereto as Appendix A).

**/ This subsection dealing with newspaper advertising shall only apply to newspaper ads of six (6) lines or more. Defendant shall continue its present advertising policies, and shall not change its present practices with respect to the size and type of advertising by shortening or by otherwise changing its policy of placing display ads to avoid the requirement of including the equal opportunity statement.

shall be prominently placed and easily legible.*/
In addition, all advertising placed by the Company or its agents shall conform to the practices recommended in the Department of Housing and Urban Development advertising guidelines, as published in 37 Fed. Reg., pp. 6700-02, on April 1, 1972. A copy of these guidelines is attached as Appendix. "B" to this Order.

(b) Allocate a reasonable proportion of its advertising budget to advertising in media directed primarily to the black and Puerto Rican communities. The parties have agreed that two reasonably prominent monthly display advertisements, one in the black and one in the Puerto Rican press,**/ together with the allocation of 10% of defendant's radio advertising budget to black-oriented and Spanish language stations, shall meet the requirements of this provision. All advertisements of Trump buildings in minority media shall advertise a full cross-section of Trump buildings with vacancies, and shall not stress or give undue emphasis to buildings with substantial minority occupancy.***/

4. Provide written notification to each firm, association, company, corporation, or other person or organization engaged by defendant to act as referral agency, apartment

*/ In radio and television advertising, the words "equal housing opportunities" shall be used and shall be easily audible.

**/ The parties agree that the placement of such advertisements in the Amsterdam News and El Diario will satisfy this requirement.

***/ If the listed apartments do not include all Trump buildings with vacancies, the buildings listed shall be rotated with each ad so that the same apartment buildings are not continuously or disproportionately advertised under this subsection.

locating service, credit checking company, or management company that apartments owned or managed by the defendant are available to all qualified persons without regard to race, color, religion, sex or national origin. Each such notification shall also advise the recipient of defendant's objective standards and procedures for rental.

B. Program of Providing Listings for Minority Apartment Seekers

For two years after the entry of this Order, or until further Order of this Court, defendant shall notify the Open Housing Center of the New York Urban League, 150 Fifth Avenue, New York, New York, 10003, of every fifth available apartment in each apartment building owned and/or managed by the defendant which has a black tenancy of less than ten percent, */ at least three days prior to placing that apartment on the open market. **/ During this three-day period, the Open Housing Center shall have the opportunity to refer qualified applicants to the defendant for the purpose of renting the apartment. After three days if no qualified applicant referred by the Center has filed an application seeking to rent the apartment, the apartment may be placed on the open market to be rented in defendant's normal business custom without regard to race, color, religion, sex or national origin.

*/ The requirements of this provision need not be followed for apartment buildings which presently have or in the future reach a black occupancy rate of 10%. For these apartment buildings, apartments shall continue to be rented without regard to race, color, religion, sex or national origin.

**/ The three day period shall begin when notification has been completed and the Open Housing Center has received, either in person or by mail, the listings. For purposes of this Decree rental on the open market shall mean rental to any person not referred by the Open Housing Center.

The defendant shall recruit, hire, assign, promote and transfer employees and agents without regard to race, color, religion, sex or national origin and will endeavor to place blacks and other nonwhite persons in supervisory and professional positions as vacancies for which they are qualified arise.*/

Pursuant to this program, the defendant shall take the following steps:

1. Place advertisements on a regular basis in newspapers that primarily serve the black and Spanish community describing the available work opportunities.**/

2. Prominently include in all advertising of available jobs the slogan "Equal Opportunity Employer."

3. Display an equal employment opportunity poster^{***}/ in a prominent place clearly visible to prospective agents, employees, and applicants for employment in each office of the defendant where applications for employment are taken.

*/ References to employees and agents in Part III C of this Decree shall include only those persons who are presently employed as or seek to be superintendents, rental agents, leasing agents, or central office personnel who receive, review or approve applications for tenancy or otherwise participate in the rental process.

**/ The parties agree that the placement of such advertisements in the Amsterdam News and El Diario will satisfy this requirement.

***/ This poster shall be in the form, size and prominence approved by the United States Department of Labor and the Equal Employment Opportunity Commission.

4. Notify in writing, each labor union representing any part of defendant's work force of the terms of Part III(C) of this Decree and that prospective employees are to be referred without regard to race, color, religion, sex or national origin.

In recruiting and hiring nonwhite employees, the defendant shall not require that nonwhite persons recruited or hired possess qualifications for any job or position more exacting than those which were in effect with respect to white employees before the institution of this action.

IV

IMPLEMENTATION OF OBJECTIVE RENTAL STANDARDS AND PROCEDURES

In order to assure nondiscriminatory selection and assignment of tenants and to assure equal opportunity in housing at each building owned or managed by Trump Management, Inc., defendant shall adopt and implement the following standards and procedures. The only standards and procedures that shall be applied in determining whether or not to rent to an applicant are as follows:

A. Standards

1. Income

One week's gross salary from all sources*/ must be at least equal to one month's rent.

2. Occupancy

(Defendants to make a proposal based on their current standards.

*/ This shall include alimony, child support, public assistance payments, or guarantor's assurances on behalf of public assistance recipients, wife's income, etc.

3. Other Objective Standards

Within fifteen (15) days of the entry of this Decree, defendant shall propose to plaintiff objective standards for rental, and uniform procedures for determining whether an applicant qualifies for rental, including procedures for credit and employment verification and standards for determining credit worthiness, all to be based on and no more stringent than defendant's past practices. These standards and procedures shall be negotiated with plaintiff and submitted to the Court within thirty (30) days of the entry of this Order.

B. Procedures */

1. Application Procedure

a. Applications for tenancy will be received at the apartment building or complex where the tenant is applying for an apartment. Applications shall be received by Superintendents or rental agents authorized by the defendant to accept applications, and instructed in the requirements of this Order and of the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq. Applications shall be accepted from all persons wishing to apply and the superintendent or agent shall make no subjective judgment on the acceptability of a prospective tenant.

b. The superintendent or rental agent shall review the application for completeness and shall require a security deposit of one month's rent and a W2 form (or reasonable substitute therefor) from all applicants. The agents shall then submit

*/ These procedures are based on defendants' past practices, as described during discovery.

the deposit, W2 form and application, for review and determination to one of the defendant's two main offices. No superintendent or rental agent shall have the authority to make a determination on the acceptability for tenancy of an applicant.

c. Applications shall be reviewed and a determination of acceptability shall be made by the Section Managers employed in the defendant's main offices.

d. Each applicant shall be informed within five (5) business days whether or not he or she has been accepted for tenancy. If rejected, the applicant shall be informed of the reason for rejection, and of the specific objective standard which he has failed to meet.

2. Providing Rental Information to Apartment Seekers

a. Defendant shall maintain at their central offices at 2611 West 2nd Street, Brooklyn, New York and 2064 Cropsy Avenue, Brooklyn, New York, and at Highlander Hall, Edgerton Hall, Patio Gardens and Lawrence Gardens, a Central Listing, to be compiled on a weekly basis, of each currently vacant or available apartment in the New York area, and of each apartment expected to be vacant or available in the New York area within the next thirty days. This list, shall include the type of apartment, the number of rooms, the monthly rent, and the date of availability and shall be shown to all persons inquiring about available apartments. Defendant shall also maintain at each of its buildings a similar list of the apartments vacant at that building.

b. Apartments which are available for rental and listed on the apartment availability list (2(a) above) shall be shown to all interested inquirers by an authorized agent of the defendant.

c. Inquirers shall be uniformly informed of the qualifications for rental, including the income, security deposit and W2 form requirements.

d. No waiting list^{*/} will be maintained at any of the defendant's offices or apartment buildings nor shall there be any preference for persons referred by present tenants. Rental will be on a first-come, first-served basis when apartments are available for rental.

V

REPORTING REQUIREMENTS

It is further ORDERED that three (3) months after the entry of this Decree, and thereafter three (3) times per year for three years the defendant shall file with the Court and serve on counsel for the plaintiff a report containing the following information for the following apartment buildings owned and/or managed by the defendant:

1. Argyle Hall
2. Westminster Hall
3. Fontainebleau Apartments
4. Lawrence Gardens and Lawrence Towers
5. Sea Isle Apartments
6. Beachaven Apartments

*/ Since this is defendant's present practice and it is non-discriminatory, plaintiff interposes no objection thereto.

7. Shorehaven Apartments
8. Belcrest Apartments
9. Highlander Hall
10. Saxony Hall
11. Clyde Hall
12. Edgerton Apartments
13. Winston Hall
14. Sussex Hall
15. Oakdale Apartments
Oceanaire Apartments
(Norfolk, Virginia)

a. The number of persons, by race,*/ making inquiry in person about the availability of terms of rental of an apartment during the preceding reporting period and the number by race, that:

1. made inquiry;
2. were offered an application;
3. filled out an application;
4. submitted an applicant with deposit;
5. were accepted for occupancy;
6. were rejected;
7. withdrew applications;
8. had applications pending at the end of the reporting period.

b. A report reflecting the applications for tenancy submitted during the preceding reporting period, including the following information for each person submitted an application:

*/ As visually observable.

1. name, address, business and home telephone number, and race;
2. date of application;
3. whether a deposit was received;
4. date notified of acceptance or rejection;
5. weekly income of applicant and monthly rent of apartment sought;
6. if accepted, apartment chosen;
7. if rejected, reason therefor;
8. name of person or persons who decided to accept or reject the application;
9. if neither accepted nor rejected, status or disposition of application.

For each rejected nonwhite applicant, the report shall include a detailed statement of the reason(s) for rejection and supporting information.

c. A list of vacancies during the preceding quarter, including the date the apartment was placed on the market^{*} and the date each apartment was rented or otherwise committed for rental.

d. Reports filed pursuant to this Order shall also include the current statistics with respect to the race of tenants in each apartment building owned or managed by the defendant, and an account of the steps taken during the preceding reporting period to implement the program outlined in Sections I and II above, including:

^{*} Including where appropriate, the date the Open Housing Center was contacted concerning the apartment's availability in accordance with Part II above.

1. Copies of all letters sent to apartment locators and credit checking companies, Fair Housing groups, and labor unions pursuant to Parts II and III of this Decree.

2. Representative copies of all newspaper advertisements placed since the entry of this Order, the name of each newspaper in which the advertisement was placed, and the date of each advertisement.

3. The name, race, position and office assignment of each rental agent, superintendent and main office employee employed as of the date of the entry of this Order, an assurance that the educational program required by Part I has been conducted, and copies of all signed statements obtained in accordance with Part I of this Decree. If any rental agent refuses to sign such a statement the defendants shall include a full statement of all pertinent circumstances and of any action taken by them in relation thereto.

VI

RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that the defendant shall for three years following the entry of this Decree, make and preserve the following records for all apartment buildings owned or managed by them:

1. The name, address, telephone number and date and time of contact of each person inquiring in person about the

the size of apartment sought, if known, and whether:

- A. he was offered an application;
- B. he filled out an application;
- C. he submitted an application with deposit.

2. A detailed record of all action taken on each inquiry and application and the reasons for such action.

3. A detailed record of all steps taken by the defendant in ascertaining the acceptability for tenancy of the applicant and the name of the employee who took such steps or who approved or rejected the application.

4. All records which are the source of, or contain any of the information pertinent to defendant's obligations under this Order. Representatives of the plaintiff shall be permitted to inspect and copy all pertinent records of the defendant at any and all reasonable times, provided, however, that the plaintiff shall endeavor to minimize any inconvenience to the defendant from the inspection of such records.

VII

It is further ORDERED that for a period extending three years from the entry of this Decree, the defendant shall, at least twenty (20) days prior to the event, report to counsel for the plaintiff:

1. Any new ownership or management interests in residential property, acquired by the defendant.
2. The divestment through transfer or sale, of any ownership or management interests in residential property.

*/ This may be accomplished by maintaining a guest register at each apartment building owned by the defendants.

It is further ORDERED that for a period of three years after the entry of this Decree the defendant shall advise counsel for plaintiff, in writing, of all complaints,*/ from whatever source, received by the defendant regarding equal opportunity in housing at properties owned and/or managed by Trump Management, Inc. In addition, plaintiff shall, for a period of three years after the entry of this Decree, notify the defendant of all complaints received by the plaintiff.

Except where the plaintiff determines that there exists a need for emergency relief threatening the effectiveness of this Decree, the plaintiff shall afford the defendant fifteen (15) days from the date notice of such a complaint is received to investigate the complaint and provide plaintiff with an explanation of the information contained in the complaint. If the complaint is determined to be valid by either party, plaintiff shall recommend what steps it believes to be necessary to correct the conditions leading to the complaint, and shall afford the defendants an additional seven (7) days to effectuate appropriate steps to remedy the conditions leading to the complaint and to overcome any continuing effects of the alleged discriminatory actions before applying to the court for a motion to compel compliance with this Decree, or any other additional judicial relief.

*/ For purposes of this Decree, "complaints" shall mean any information which comes to the attention of the defendant or its officers from whatever source received, which indicates a possible denial of equal housing opportunities under the Fair Housing Act, 42 U.S.C. 3601 et seq., or a potential violation of this Decree.

C

APPENDIX C

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 FRED C. TRUMP, DONALD TRUMP)
 and TRUMP MANAGEMENT, INC.,)
)
 Defendants.)

CIVIL ACTION NO. 73 C 1529

CONSENT ORDER

This action was instituted by the United States of America on October 15, 1973, pursuant to the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq.

The claim of the United States is that the defendants have failed and neglected to exercise their affirmative and non-delegable duty under the Fair Housing Act to assure compliance by their subordinates, with the result that equal housing opportunity has been denied to substantial numbers of persons and that defendant's subordinates have failed to carry out their obligations under the Act.

Defendants vigorously deny said allegations and claim that the number of violations, if any, are insubstantial, minute and "de minimis" and that if there was any discrimination, it was not done at the direction of the individual defendants or the officers of Trump Management, Inc.

Accordingly, without adjudication of the merits and without any admission as to the existence or absence of liability, and in order to resolve this matter without further protracted litigation, including a long, costly and time consuming trial, the parties hereto are prepared to resolve this case by the entry of a Consent Decree.

It is expressly understood and Agreed that the execution of this Agreement by Trump Management, Inc. is in no way an admission by it of a violation of the prohibition against discrimination as set forth in the Fair Housing Act of 1968, or any other applicable statute, rule or regulation. (To the contrary, they assert that they have been in compliance with same, and that only miniscule alleged examples of discrimination in a handful of units out of over 100,000 that changed hands in 14 years establishes this.) RMC

I

It is hereby ORDERED, ADJUDGED AND DECREED that the Complaint against Fred C. Trump and Donald J. Trump is dismissed against them in their personal capacity.

II

It is further ORDERED that Trump Management, Inc., their officers, agents, employees, successors, and all persons in active concert or participation with any of them, are hereby permanently enjoined from:

1. Refusing to sell or rent, refusing to negotiate for the sale or rental of, or otherwise making unavailable or denying any dwelling to any person on account of race, color, religion, sex or national origin.
2. Discriminating against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex or national origin.
3. Making, printing or publishing, or causing to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex or national origin, or an intention to make such preference, limitation or discrimination.
4. Representing to any person because of race, color, religion, sex or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
5. Influencing the residential choice of any person on account of race, color, religion, sex or national origin.

6. Coercing, threatening, or interfering with, or attempting to coerce, threaten or interfere with any person in the exercise or enjoyment of the right to equal housing opportunity protected by the Fair Housing Act of 1968, or in the exercise or enjoyment of the right to assist others to secure equal housing opportunity.

7. Engaging in any act or practice which has the purpose or the effect of denying or abridging the right to equal housing opportunity protected by the Fair Housing Act. In this connection, defendant shall not, in determining the income qualifications for rental of any person, family or other group of persons, fail or refuse to fully take into account a woman's total income, including salary, wages, alimony, support payments or other income from whatever source received.

III

ASSUMPTION OF RESPONSIBILITY BY PRINCIPALS AND TRAINING PROGRAM FOR AGENTS AND EMPLOYEES

Trump Management, Inc. controls many thousands of rental units in the New York area and elsewhere, and its activities therefore have a major impact on housing opportunities. The individual defendants therefore occupy a position of leadership in the real estate community and can, by their example, influence the activities not only of their own agents and employees but also of many others. The Fair Housing Act prohibits conduct which is discriminatory in its effect, regardless of motivation, and violations of the Act can result from thoughtlessness and lack of information, as well as from deliberate discrimination.

Accordingly, it is ORDERED as follows:

A. The officers of Trump Management, Inc. shall forthwith:

(1) thoroughly acquaint themselves personally on a detailed basis with all of their obligations under the Fair Housing Act of 1968, as amended; under state and municipal civil rights laws; under pertinent Regulations and Guidelines of the Department of Housing and Urban Development and other appropriate agencies; and under this Order;

(2) take steps to assure that their principal assistants and officers similarly familiarize themselves with their obligations; and

(3) undertake to assure that the training program set forth herein is successfully carried out.

B. Within thirty (30) days of the entry of this Decree, the defendant shall conduct and complete an educational program for all employees with rental or employment responsibility, who have contact with prospective tenants, provide information to the public about rental, or accept or process applications for rentals, or who are engaged in any manner in the employment process, to inform them of the provisions of this Decree, and their duties under the Fair Housing Act of 1968. Such program shall include:

(1) furnish to each such agent and employee a letter summarizing the terms of this Decree and of the Fair Housing Act as it applies to the employee;

(2) informing each such agent and employee, in person or by general meeting, of the provisions of this Decree and of duties of the Company and its agents and employees under the various applicable Fair Housing Acts. Each such agent and employee shall be advised that his failure to comply with the provisions of this Decree shall subject him to dismissal or other disciplinary action, and to

sanctions for disobedience of this Order;

(3) securing a signed statement from each such agent that he has read the letter mentioned above and received the instructions described in the preceding paragraph and forwarding a copy of each signed statement to plaintiff.

Each new agent and employee shall be instructed in accordance with the procedures set out above and shall be required to sign a statement to the effect that he has been so instructed and will comply with such instructions within ten (10) days following the initial date of employment.

IV

AFFIRMATIVE PROGRAM

It is further ORDERED that the defendant shall forthwith take the following steps to adopt and implement an affirmative program aimed at ensuring compliance with the Fair Housing Act of 1968.

A. Notification to the Community of Defendant's Nondiscriminatory Policy

1. Post and maintain fair housing signs in a form approved by the Secretary of the Department of Housing and Urban Development (HUD) in all offices of the defendant where there is rental activity or public contact.

2. Include in all appropriate advertising the words "Equal Housing Opportunity" as to ads of fifteen lines or more. In addition, all advertising placed by the Company or its agents shall conform to the practices recommended in the Department of Housing and Urban Development advertising guidelines, as published in 37 Fed Reg., pp. 6700-02, on April 1, 1972. A copy of these guidelines is attached as Appendix "B" to this Order.

B. Affirmative Employment Program

Plaintiff acknowledges that defendant presently has working for them a large percentage of black and minority workers. Despite this, however, the defendant will not discriminate against anyone due to race, color, religion, sex or national origin in supervisory and professional positions as vacancies for which they are qualified arise.

Pursuant to this policy, the defendant shall take the following steps:

1. Display an equal opportunity employment poster in a prominent place clearly visible to prospective agents, employees and applicants for employment in each office of the defendant where applications for employment are taken.

2. Notify in writing each labor union whose members are part of defendant's work force of the terms of Part IV (c) of this Decree and that prospective employees are to be referred without regard to race, color, religion, sex or national origin.

In recruiting and hiring nonwhite employees, the defendant shall not require that they possess qualifications for any job or position more exacting than those which were in effect with respect to white employees before the institution of this action.

V

IMPLEMENTATION OF OBJECTIVE RENTAL
STANDARDS AND PROCEDURES

In order to assure nondiscriminatory selection and assignment of tenants and to assure equal opportunity in housing at each building owned or managed by defendant or any of them, defendant shall adopt and implement the following standards and procedures:

A. Standards

1. Income *

One week's net salary from all sources must be at least equal to one month's rent unless any of the following circumstances pertain:

- a. If a guarantor is used.
- b. If additional security is used or if a customer is willing to pay rent in advance.
- c. If a tenant switches from one Trump building to another Trump building and if that tenant has met his obligations to Trump Management, Inc. in the past.
- d. If a prospective tenant has a bank account with a substantial balance.
- e. Individuals who furnish quality references from people such as bank officers, professionals (attorneys, architects, doctors, etc.) or relatives, who will guarantee their financial responsibility.
- f. If a particular building is experiencing rental difficulty due to economic or other conditions.
- g. If a prospective tenant (or his relatives) does business with Trump Management Inc. and will vouch for their financial stability.

*/ All income sources of any applicant, including wife's income, public assistance payments, alimony and child support shall be given due and reasonable consideration in determining the financial eligibility of any applicant to assure payment of rent when due.

2. Occupancy

Not more than two persons in a one bedroom apartment. Not more than four persons, two adults and two

children of the same sex, in a two bedroom apartment, etc.

B. Procedures

1. Application Procedure

a. Applications for tenancy will be received at the apartment building or management office of the complex where the tenant is applying for an apartment. Applications shall be received by superintendents or rental agents authorized by the defendant to accept applications, and instructed in the requirements of this Order and of the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq. Applications shall be accepted from all persons wishing to apply and the superintendent or agent shall make no subjective judgment on the acceptability of a prospective tenant unless said prospective tenant is:

- i. Drunk and disorderly
- ii. Visibly under the influence of drugs
- iii. Abusive towards superintendent or rental agent.
- iv. Blatantly shabbily dressed to a point at which other tenants living in the building would be offended.

b. The superintendent or rental agent shall review the application for completeness and shall require the payment of one month's rent and one month's security together with a current W2 Form (or reasonable substitute therefor) from all applicants to be forwarded for review and determination to the defendant's main office.

c. A uniform credit check and employment check shall be conducted with respect to each applicant.

d. Applications shall be reviewed and a determination of acceptability shall be made by the Section Managers employed in the defendant's main office.

e. Each applicant shall be informed within twenty (20) business days whether or not he or she has been accepted for tenancy. If rejected, the applicant shall be informed of the reason for rejection, and of the specific objective standard which he has failed to meet.

2. Providing Rental Information to Apartment Seekers

a. Defendant shall maintain at their central office at 2611 West 2nd Street, Brooklyn, New York and 2064 Cropsy Avenue, Brooklyn, New York a central listing to be compiled on a weekly basis, of each current vacant or available apartment in the New York area. This list shall include the type of apartment, the number of rooms, the monthly rent and date of availability. Defendant shall also maintain at each of their buildings a similar list of the apartments vacant at that building.

b. Inquirers shall be uniformly informed of the qualifications for rental, including the income, security deposit and W2 Form requirements.

VI

REPORTING REQUIREMENTS

It is further ORDERED that three (3) months after the entry of this Decree, and thereafter three (3) time per year, the defendant shall file with the Court and serve on counsel for the plaintiff a report containing the following information for the following apartment buildings owned and/or managed by the defendant:

1. Argyie Hall
2. Westminster Hall
3. Fontainbleau Apartments
4. Lawrence Gardens and Lawrence Towers
5. Sea Isle Apartments

6. Beach Haven Apartments
7. Shore Haven Apartments
8. Belcrest Apartments
9. Highlander Hall
10. Saxony Hall
11. Clyde Hall
12. Edgerton Apartments
13. Winston Hall
14. Sussex Hall

A. If a prospective applicant, making inquiry about a rental of an apartment in one of the above mentioned developments, will fill out an application form, the following information will be asked on said application and said application will be retained by defendant during the term of this Order:

1. Name, Address, Business and Home telephone number
2. Date of Application
3. Whether a deposit was given
4. Weekly net income of applicant and monthly rent sought
5. Apartment sought
6. If rejected, reason therefor
7. Name of person or persons who decided to accept or reject the application
8. If neither accepted or rejected, status or disposition of application.

For each rejected nonwhite applicant, a report shall be made, on notification of a complaint, to include the defendant's reasons for rejection together with person responsible for said rejection.

VII

It is further ORDERED that whenever any future complaints arise under the provision of this Order, the Government shall furnish the name of the person who made such complaint and a brief description of the nature and substance of the complaint, including the date of the alleged incident and the building with respect to which the complaint was made. Thereafter, the defendant shall have thirty (30) days from the date notice is received of such complaint and the nature thereof, to investigate such complaint, and if the complaint is determined by defendant to be valid, to advise the Government what steps, if any, have been taken to correct the conditions leading to the complaint; or, if the complaint is determined by defendant to be invalid, to advise the Government of the basis for determining the complaint to be invalid, before the Government shall apply to this Court with any motion for an Order to Show Cause or any other motion to compel compliance with this Order.

VIII

It is further ORDERED that for a period extending two (2) years from the entry of this Decree, the defendant shall, at least twenty (20) days prior to the event, report to counsel for the plaintiff:

1. Any new ownership or management interests in residential property in the New York area acquired by the defendant.
2. The divestment, through transfer or sale, of any ownership or management interests in residential property in the New York area.

IX

Two years from the date this Decree is entered, or thereafter, the defendant may move to dissolve this Order. If the United States fails to interpose any objection within thirty (30) days of the Notice of Motion, this injunction shall be dissolved and the complaint dismissed without a hearing or further Order of the Court.

X

Each party shall bear its own costs.

The Court shall retain jurisdiction of this action for all purposes until the termination of this Order.

ORDERED THIS day of 1975.

EDWARD NEAHER
United States District Judge

The undersigned apply for and consent to the entry of this ORDER:

For the Defendant:

For the Plaintiff:

①

APPENDIX D

T. 3/14/75

JSP:FES:NPG:mp
DJ 175-52-28

MAR 14 1975

Mr. Roy Cohn
Saxe, Bacon, Bolan
and Manley
39 East 68th Street
New York, New York 10021

Re: United States v. Trump Management
et al.

Dear Roy:

I was sorry to hear of your illness and wish you a speedy recovery.

As I explained to you by telephone, we understand that this case has been settled in principle in accordance with our Memorandum of Understanding which was signed by both parties on January 20, 1975. The agreement provides, among other things, that

[t]he parties shall . . . seek the assistance of the Court to resolve any dispute arising solely out of disagreement as to the meaning of any proposed change referred to in the Memorandum of Understanding. All other provisions in the attached Consent Decree and those not in dispute as to meaning in the Memorandum of Understanding shall be contained in their entirety in the final Consent Decree.

Records
Chrono

Mr. Schwelb
Mr. Goldberg

Trial File ✓

The second sentence of the quoted passage makes it crystal clear that there are to be no changes in the decree attached to the Memorandum except those specifically set forth in the Memorandum. As one who represents his clients with sufficient zeal to suit most, you will understand my unwillingness to renegotiate what we have already negotiated, or to have a negotiated settlement picked apart once the pressure of imminent trial is off.

The "counterdraft" which you submitted to us does not appear in any way to recognize the validity of the Memorandum of Understanding and makes innumerable changes other than those specified in that Memorandum, all of which weaken the Order. Accordingly, I was somewhat reassured, hopefully with reason, by what I took to be your assurance that you did not view the Memorandum as a "gimmick" that was designed to delay the ultimate resolution of this case and that you do regard it as a valid instrument which both parties are bound to follow as closely as possible.

Accordingly, I am going along with your request to draft a new letter which sets forth the differences between your "counterdraft" and the earlier version of our agreement and indicating which of the provisions omitted from your decree are essential to a settlement. Please keep in mind that by writing this letter we are not agreeing to the reopening of any negotiations foreclosed by the Memorandum of Understanding and that we believe that the case should be settled forthwith on the terms to which we previously agreed. It is not my intention to treat an agreement previously negotiated as being a starting point for new negotiations which could only weaken it.

1. Provisions omitted from or substantially altered by defendants' "consent decree" which must be re-inserted in the final decree:

a. Paragraph II A (1). */ Defendants' notification to three fair housing groups (names to be agreed upon by the parties) of defendants' fair housing policies and subsequent weekly notification of defendants' vacancies to each group. We would be satisfied to delegate the responsibility for selecting the fair housing groups to the New York City Commission on Human Rights. Alternatively, we would be content with the selection of the following groups: (1) the New York City Open Housing Center, the South Side Community Mission (for Spanish speaking people) and any fair housing or civil rights group to which your proposed witness from the NAACP belongs.

b. Paragraph III A (3)(a). Inclusion of words "Equal Housing Opportunities" and fair housing logo in all types of advertising including ads of 6 lines or more. See paragraph (e) of Memorandum of Understanding for prior negotiated modification. As you know, we had originally recommended inclusion in ads of 3 lines, and the 6 lines were the compromise on which we both signed off.

*/ References to numbered paragraphs refer to those contained in Plaintiff's Proposed Consent Decree, forwarded to defendants on February 5, 1975, unless otherwise specified herein.

- c. Paragraph III A (3)(b). Advertising of housing opportunities in minority media. See paragraphs (f) and (g) of Memorandum of Understanding for prior negotiated modification of our original proposal.
- d. Paragraph III A (4). Written notification to all appropriate companies with whom defendants do business of defendants' fair housing policies.
- e. Paragraph III B. Provision of list of certain vacancies to Open Housing Center. See paragraph (h) of Memorandum of Understanding for prior negotiated modification. The text of paragraph (h) makes it quite clear that such holdings of vacancies is to be accomplished, and it is no secret to you that this affirmative relief is of particularly great importance.
- f. Paragraph III C (1). Advertising of defendants' employment opportunities in minority media.
- g. Paragraph III C (2). Inclusion of the words "Equal Opportunity Employer" in all employment advertising.
- h. Paragraph IV A (1). Income standards are to be one week's gross salary equal to one month's rent. Virtually every resident manager testified on deposition that the prior standard was gross income and not net income. Other provisions related to objective standards, Paragraph IV A 3 and paragraph (i) of the Memorandum of Understanding, set forth the principle that the standards for tenancy shall be no more stringent than those previously followed by defendants.

i. Footnote to Paragraph IV A (1). Language should be retained to assure that wife's income and other forms of income are counted and not merely given fair and reasonable consideration. See additional discussion, infra, as to requirement for counting public assistance payments.

j. Paragraph IV B (2)(a). Maintenance at selected apartment complexes in Brooklyn and Queens of weekly listings of all vacancies at defendants' buildings.

k. Paragraph IV (d). Rentals made available on first-come, first-served basis.

l. Paragraph V. Reporting obligations to run for period of three (3) years.

m. Paragraph V (c) and (d)(1), (2) and (3). Other reporting requirements.

n. Paragraphs VI (1) through (4). Record keeping provisions.

o. Paragraph I. The prohibitory injunction is permanent. After three years, we have no objection to a clause enabling defendants to move for a dissolution of the affirmative relief provisions of the decree, subject to good cause objections by plaintiff.

2. Other changes related to settlement by consent decree:

a. The prefatory language of the two proposals can be combined satisfactorily. We should keep the rhetoric on behalf of everyone to a minimum.

b. The differences between Paragraph VIII of our proposal and Paragraph VII of defendants' proposal relating to notification to either party of housing discrimination complaints are negotiable.

c. The terms of the dismissal of Fred and Donald Trump individually should be reworded to conform to the Memorandum of Understanding which clarifies that they are still in as officers of the corporation.

d. As you mentioned over the telephone, Boyd v. Lefrak was reversed by the Court of Appeals. Plaintiffs have applied for a rehearing en banc, and expect to go to the Supreme Court if they lose. Accordingly, the footnote in our original proposal is still valid. In any event, your people testified that they counted public assistance payments now, and since the standards are not to be more stringent than before, they should continue to do so.

Per our agreement by telephone, we will look' forward to receiving your response within five business days. I suggest that after that we put aside four continuous hours or so of attention solely to getting the mechanics of this decree arranged, getting it typed in suitable form, and getting it signed and ready for submission to the Court. If we do not hear from you, as arranged, we will assume that settlement is not possible without seeking the assistance of Judge Neaher as provided in our Memorandum of Understanding.

All in all, I have to say I don't know whether to be impressed or surprised at the way that you are making a career of this case. Then again, I suppose you always need material for a book. I would like to think that I'll get a complimentary copy of the next one too, and good luck even if I am still with the Civil Rights Division.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By:

FRANK E. SCHWELB
Chief
Housing Section

E

APPENDIX E

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
)	
Plaintiff,	)	CIVIL ACTION
	)	NO. 73 C 1529
)	
v.)	
)	
FRED C. TRUMP, DONALD TRUMP	)	<u>CONSENT ORDER</u>
and TRUMP MANAGEMENT, INC.,)	
)	
Defendants.)	

This action was instituted by the United States of America on October 15, 1973, pursuant to the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq.

The claim of the United States is that the defendants have failed and neglected to exercise their affirmative and nondelegable duty under the Fair Housing Act to assure compliance by their subordinates, with the result that equal housing opportunity has been denied to substantial numbers of persons and that defendant's subordinates have failed to carry out their obligations under the Act.

Defendants vigorously deny said allegations and claim that the number of violations, if any, are insubstantial, and that if there was any discrimination, it was not done at the direction of the individual defendants or the officers of Trump Management, Inc.

Accordingly, without adjudication of the merit and without any admission as to the existence or absence of liability, and in order to resolve this matter without further protracted litigation, the parties hereto are prepared to resolve this case by the entry of a Consent Decree.

It is expressly understood and agreed that the execution of this Agreement by Trump Management, Inc., is in no way an admission by it of a violation of the prohibition against discrimination as set forth in the Fair Housing Act of 1968, or any other applicable statute, rule or regulation.

Irrespective of the merits of the complaint, however, the principal officers of defendant Trump Management, Inc., are prepared to affirmatively assume and carry out the responsibility for assuring that their employees will comply with the Act and will promote equal opportunity. Accordingly, the parties are prepared to resolve this case by the entry of the following Consent Order.

I.

It is hereby ORDERED, ADJUDGED and DECREED that in consideration of their affirmative assumption of responsibility contained in part III herein, the complaint against Fred C. Trump and Donald J. Trump is dismissed against them in their personal capacity, with prejudice, as to all allegations contained therein.

II.

INJUNCTION

It is hereby ORDERED, ADJUDGED and DECREED that the defendant, its officers, agents, employees, successors, and all persons in active concert or participation with any of them, are hereby permanently enjoined from:

GENERAL INJUNCTIVE PROVISIONS

1. Refusing to sell or rent, refusing to negotiate for the sale or rental of, or otherwise making unavailable or denying any dwelling to any person on account of race, color, religion, sex or national origin.

2. Discriminating against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex or national origin.

3. Making, printing, or publishing, or causing to be made, printed, or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex or national origin, or an intention to make such preference, limitation or discrimination.

4. Representing to any person because of race, color, religion, sex or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

5. Influencing the residential choice of any person on account of race, color, religion, sex or national origin.

6. Coercing, threatening, or interfering with, or attempting to coerce, threaten or interfere with any person in the exercise or enjoyment of the right to equal housing opportunity protected by the Fair Housing Act of 1968, or in the exercise or enjoyment of the right to assist others to secure equal housing opportunity.

7. Engaging in any act or practice which has the purpose or the effect of denying or abridging the right to equal housing opportunity protected by the Fair Housing Act. In this connection, defendants shall not, in determining the income qualification for rental of any person, family, or other group of persons, fail or refuse to fully count a woman's total income, including salary, wages, alimony, support payments or other income from whatever source received.

III

ASSUMPTION OF RESPONSIBILITY BY PRINCIPALS OF TRUMP MANAGEMENT INC., AND TRAINING PROGRAM FOR AGENTS AND EMPLOYEES

Trump Management Inc., controls many thousands of rental units in the New York area and elsewhere, and its activities therefore have a major impact on housing opportunities. The company therefore occupies a position of leadership in the real estate community and can, by its example, influence the activities not only of its own agents and employees but also of many others. The Fair Housing Act prohibits conduct which is discriminatory in its effect, regardless of motivation, and violations of the Act can result from thoughtlessness and lack of information, as well as from deliberate discrimination. The principal officers of Trump Management, Inc., recognize that they have both the responsibility to assure nondiscrimination by their agents and employees and a significant opportunity to promote equal housing opportunity generally in the New York area and elsewhere. They are prepared to carry out that responsibility and to take advantage of that opportunity.

Accordingly, it is ORDERED as follows:

A. The principal officers of Trump Management, Inc., presently Donald Trump and Fred C. Trump shall forthwith

(1) thoroughly acquaint themselves personally on a detailed basis with all of the obligations of the defendant under the Fair Housing Act of 1968, as amended and as judicially interpreted; under state and municipal civil rights laws; under pertinent Regulations and Guidelines of the Department of Housing and Urban Development and other appropriate agencies; and under this Order;

(2) Take steps to assure that their principal assistants and officers similarly familiarize themselves with their obligations; and

(3) Personally undertake to assure that the training program set forth herein is successfully carried out.

B. Within thirty (30) days of the entry of this Decree, the Defendant by its principal officers, shall conduct and complete an educational program for all employees with rental or employment responsibilities, who have contact with prospective tenants, provide information to the public about rental, or accept or process applications for rentals, or who are engaged in any manner in the employment process, to inform them of the provisions of this Decree, and their duties under the Fair Housing Act of 1968. Such program shall include:

(1) Furnishing to each such agent and employee a letter summarizing the terms of this Decree and of the Fair Housing Act as it applies to the employee.

(2) Informing each such agent and employee, in person or by general meeting, of the provisions of this Decree and of duties of the Company and its agents and employees under the various applicable Fair Housing Acts. Each such agent and employee shall be advised that his failure to comply with the provisions of this Decree shall subject him to dismissal or other disciplinary action, and to sanctions for disobedience of this Order.

(3) Securing a signed statement from each such agent that he has read the letter mentioned above and received the instructions described in the preceding paragraph and forwarding a copy of each such signed statement to plaintiff.

Each new agent and employee shall be instructed in accordance with the procedures set out above and shall be required to sign a statement to the effect that he has been so instructed and will comply with such instructions within ten (10) days following the initial date of employment. Copies of all signed statements will be furnished to plaintiff upon execution.

IV

AFFIRMATIVE PROGRAM

It is further ORDERED that the defendant shall forthwith*/ and for a period of two (2) years following the entry of this Order take the following steps to adopt and implement an affirmative program aimed at ensuring compliance with the Fair Housing Act of 1968, and at overcoming the effects of any previous actions by the defendant which had the purpose or effect of impairing rights secured by the Fair Housing Act:

A. Notification to the Community of Defendant's Nondiscriminatory Policy

1. Notify the Open Housing Center of the New York Urban League, 150 Fifth Avenue, New York, New York, in writing, with copies to counsel for plaintiff that apartments owned or managed by the defendant are available to all qualified persons without regard to race, color, religion, sex or national origin. Included in such letter shall be a full synopsis of the rental standards and procedures outlined in Part V, below, and a general statement of present and anticipated vacancies in Trump apartment buildings in the New York Metropolitan area. The parties shall agree on the text of an appropriate letter prior to its mailing. Subsequently, defendant shall mail to the Open Housing Center a copy of its weekly Central Listing of vacancies described infra in Part V of this decree. This mailing shall be done on the day the list is made. The Open Housing Center may, at its own discretion, forward copies of the above-mentioned letter and weekly list of vacancies to any and all persons or organizations with an interest in promoting equal housing opportunities.

*/ The defendant's obligations to implement each provision of this Order for affirmative action shall begin ten (10) days following the entry of this Order, unless otherwise specified herein.

2. Post and maintain fair housing signs in a form approved by the Secretary of the Department of Housing and Urban Development (HUD)*/ in all offices of the defendant where there is rental activity or public contact.

3. Implement an advertising program aimed at informing the nonwhite community of defendant's nondiscriminatory rental policy. The defendant shall

a. Include, in all advertising,**/ in newspapers, telephone directories, radio, television and other media, and on all billboards, signs, pamphlets, brochures, and other promotional literature the words "Equal Housing Opportunity" and the fair housing logo. These words and the logo shall be prominently placed and easily legible.***/ In addition, all advertising placed by the Company or its agents shall conform to the practices recommended in the Department of Housing and Urban Development advertising guidelines, as published in 37 Fed. Reg., pp. 6700-02, on April 1, 1972. A copy of these guidelines is attached as Appendix "B" to this Order.

*/ See the pertinent HUD regulation, 37 F.R. 3429 (a copy attached hereto as Appendix A).

**/ This subsection dealing with newspaper advertising shall only apply to newspaper ads of six (6) lines or more. Defendant shall continue its present advertising policies, and shall not change its present practices with respect to the size and type of advertising by shortening or by otherwise changing its policy of placing display ads to avoid the requirement of including the equal opportunity statement.

***/ In radio and television advertising, the words "equal housing opportunities" shall be used and shall be easily audible.

(b) Allocate a reasonable proportion of its advertising budget to advertising in media directed primarily to the black and Puerto Rican communities. The parties have agreed that the placement of reasonably prominent monthly display advertisements, one in the black and one in the Puerto Rican press,*/ together with the allocation of 10% of defendant's radio advertising budget to black-oriented and Spanish language stations, shall meet the requirements of this provision. All advertisements of Trump buildings in minority media shall advertise a full cross-section of Trump buildings with vacancies, and shall not stress or give undue emphasis to buildings with substantial minority occupancy.**/

4. Provide written notification to each firm, association company, corporation, or other person or organization engaged by defendant to act as referral agency, apartment locating service, credit checking company, or management company that apartments owned or managed by the defendant are available to all qualified persons without regard to race, color, religion, sex or national origin. Each such notification shall also advise the recipient of defendant's objective standards and procedures for rental.

*/ The parties agree that the placement of such advertisements in the Amsterdam News and El Diario will satisfy this requirement.

**/ If the listed apartments do not include all Trump buildings with vacancies, the buildings listed shall be rotated with each ad so that the same apartment buildings are not continuously or disproportionately advertised under this subsection.

B. Program of Providing Listings for Minority Apartment Seekers

For two years after the entry of this Order, defendant shall notify the Open Housing Center of the New York Urban League, 150 Fifth Avenue, New York, New York, 10003, of every fifth available apartment in each apartment building owned and/or managed by the defendant which has a black tenancy of less than ten percent,*/ at least three days prior to placing that apartment on the open market.**/ During this three-day period, the Open Housing Center shall have the opportunity to refer qualified applicants to the defendant for the purpose of renting the apartment. All applicants referred by the Open Housing Center shall provide the defendant or its representative with an appropriate identification which will serve to advise the defendants that such applicant has been referred by the Open Housing Center pursuant to this subsection. After three days if no qualified applicant referred by the Center has filed an application seeking to rent the apartment, the apartment may be placed on the open market to be rented in defendant's normal business custom without regard to race, color, religion, sex or national origin.

C. Affirmative Employment Program

The defendant shall recruit, hire, assign, promote and transfer employees and agents without regard to race, color,

*/ The requirements of this provision need not be followed for apartment buildings which presently have or in the future reach a black occupancy rate of 10%. For these apartment buildings, apartments shall continue to be rented without regard to race, color, religion, sex or national origin.

**/ The three-day period shall begin when notification has been completed and the Open Housing Center has received, either in person, by telephone, or by mail, the listings. For purposes of this Decree, rental on the open market shall mean rental to any person not referred by the Open Housing Center.

religion, sex or national origin and will endeavor to place blacks and other nonwhite persons in supervisory and professional positions as vacancies for which they are qualified arise.*/

Pursuant to this program, the defendant shall take the following steps:

1. For every third available employment opportunity, place advertisements on a regular basis in newspapers that primarily serve the black and Spanish community**/ describing the available work opportunities.***/
2. Prominently include in all advertising of available jobs the slogan "Equal Opportunity Employer."
3. Display an equal employment opportunity poster****/ in a prominent place clearly visible to prospective agents, employees, and applicants for employment in each office of the defendant where applications for employment are taken.

*/ References to employees and agents in Part IV C of this Decree shall include only those persons who are presently employed as or seek to be superintendents, rental agents, leasing agents, or central office personnel who receive, review or approve applications for tenancy or otherwise participate in the rental process.

**/ The parties agree that the placement of such advertisements in the Amsterdam News and El Diario will satisfy this requirement.

***/ If defendants shall choose to restrict employment to persons living within a reasonable distance from the employment location, they shall so specify in these advertisements. Such designated areas shall be designed to include areas of potential black and Spanish residents

****/ This poster shall be in the form, size and prominence approved by the United States Department of Labor and the Equal Employment Opportunity Commission.

4. Notify in writing, each labor union representing any part of defendant's work force of the terms of Part IV(C) of this Decree and that prospective employees are to be referred without regard to race, color, religion, sex or national origin.

In recruiting and hiring nonwhite employees, the defendant shall not require that nonwhite persons recruited or hired possess qualifications for any job or position more exacting than those which were in effect with respect to white employees before the institution of this action.

V

IMPLEMENTATION OF OBJECTIVE RENTAL
STANDARDS AND PROCEDURES

In order to assure nondiscriminatory selection and assignment of tenants and to assure equal opportunity in housing at each building owned or managed by Trump Management, Inc., defendant shall adopt and implement the following standards and procedures which shall be applied in determining whether or not to rent to an applicant.

A. Standards

1. Income

One week's gross income from all sources*/ must be at least equal to one month's rent, except in the following circumstances:

(a) The applicant(s) have outstanding automobile payments, or other fixed debt in excess of \$50.00 a month, with a remaining debt period in excess of four (4) months, or

*/ This shall include alimony, child support, public assistance payments, or guarantor's assurances on behalf of public assistance recipients, wife's income, part-time employment, pensions, etc.

(b) The family composition is in excess of three (3) persons.

In either circumstance (a) or (b) above, one week's net income must be at least equal to one month's rent.

If an applicant does not meet the foregoing income standards, he or she may still qualify for rental if:

(a) He or she secures a guarantor who can verify funds sufficient to meet the financial obligations of the guarantors fixed monthly payments for his or her residence, as well as the applicant's rental, based on the defendant's income standards.

(b) If the applicant is willing to post three (3) months security deposit or will supply six (6) months rent in advance.

(c) If a tenant switches from one Trump building to another Trump building and if that tenant has met his obligations to Trump Management, Inc., in the past.

2. Occupancy

Not more than two (2) persons in a one-bedroom apartment. Not more than four (4) persons, two (2) adults and two (2) children of the same sex,*/ in a two-bedroom apartment.

B. Procedures **/

1. Application Procedure

*/ Except that children under ten years of age may be of different sexes.

**/ These procedures are substantially based on defendant's past practices, as described during discovery.

a. Applications for tenancy will be received at the apartment building or complex where the tenant is applying for an apartment. Applications shall be received by Superintendents or rental agents authorized by the defendant to accept applications, and instructed in the requirements of this Order and of the Fair Housing Act of 1968, 42 U.S.C. 3601 et seq. Applications shall be accepted from all persons wishing to apply and the superintendent or agent shall make no subjective judgment on the acceptability of a prospective tenant, unless said prospective tenant is:

(i) visibly and objectively drunk and disorderly;

(ii) visibly and objectively under the influence of drugs;

(iii) abusive towards the superintendent or rental agent;

or there is,

(iv) a visible and objective indication that the applicant will not maintain his or her apartment with sufficient care and cleanliness so as not to intrude on the rights of other tenants. In order to satisfy this criteria, defendant or its agents shall contact the applicant's former landlord to ascertain the manner in which he or she had maintained the rented premises. In no event shall the subjective impression by a superintendent of the manner of dress or style of grooming disqualify an applicant. This subsection shall apply solely to cleanliness criteria.

b. The superintendent or rental agent shall review the application for completeness and shall require a security deposit of one month's rent and a W2 form (or reasonable substitute therefor) from all applicants. The agents shall then submit the deposit, W2 form and application, for review and determination to one of the defendant's two main offices. No superintendent or rental agent shall have the authority to make a determination on the acceptability for tenancy of an applicant except as outlined in B(1)(a) (i-iv) above.

c. Applications shall be reviewed and a determination of acceptability shall be made by the Section Managers employed in the defendant's main offices.

d. If conducted, a uniform credit check and/or employment check shall be conducted with respect to each applicant. The standards of acceptability based on credit and employment shall be uniformly applied without regard to race, color, religion, sex or national origin.

e. Each applicant shall be informed wherever possible within ten (10) business days whether or not he or she has been accepted for tenancy. If an application can not be processed within ten (10) days, defendant shall notify the applicant of the reason therefor, but in no event shall an applicant not be informed of the disposition of his application beyond twenty (20) days from the time he or she applied. If rejected, the applicant shall be informed of the reason for rejection, and of the specific objective standard he or she has failed to meet.

2. Providing Rental Information to Apartment Seekers

a. Defendant shall maintain at its central offices at 2611 West 2nd Street, Brooklyn, New York and 2064 Cropsey Avenue, Brooklyn, New York, a Central Listing, to be compiled on a weekly basis, of each currently vacant or available apartment in the New York area, and of each apartment expected to be vacant or available in the New York area within the next thirty days. This list shall include the type of apartment, the number of rooms, the monthly rent, and the date of availability and shall be shown to all persons inquiring about available apartments. Defendant shall also maintain at each of its buildings a similar list of the apartments vacant at that building by type of apartment available and a notification that complete lists of all available apartments in the New York area are available for inspection at defendant's main offices located at 2611 W. 2nd Street, Brooklyn, New York and 2064 Cropsey Avenue, Brooklyn, New York.

b. Apartments which are available for rental and listed on the apartment availability list (2(a) above) shall be shown to all interested inquirers by an authorized agent of the defendant.

c. Inquirers shall be uniformly informed of the qualifications for rental, including the income, security deposit and W2 form requirements.

d. No waiting list*/ will be maintained at any of the defendant's offices or apartment buildings nor shall there be any preference for persons referred by present tenants. Rental will be on a first-come, first-served basis when apartments are available for rental.

VI

REPORTING REQUIREMENTS

It is further ORDERED that three (3) months after the entry of this Decree, and thereafter three (3) times per year for two years the defendant shall file with the Court and serve on counsel for the plaintiff a report containing the following information for the following apartment buildings owned and/or managed by the defendant:

1. Argyle Hall
2. Westminster Hall
3. Fontainebleau Apartments
4. Lawrence Gardens and Lawrence Towers
5. Sea Isle Apartments
6. Bachaven Apartments
7. Shorehaven Apartments
8. Belcrest Apartments
9. Highlander Hall
10. Saxony Hall
11. Clyde Hall
12. Edgerton Apartments
13. Winston Hall
14. Sussex Hall

*/ Since this is defendant's present practice and it is non-discriminatory, plaintiff interposes no objection thereto.

a. The number of persons, by race*/ (as visually observable) making inquiry in person about the availability of terms of rental of an apartment during the preceding reporting period and the number by race, that:

1. made inquiry;
2. were offered an application;
3. filled out an application;
4. submitted an applicant with deposit;
5. were accepted for occupancy;
6. were rejected;
7. withdrew applications;
8. had applications pending at the end of the reporting period.

This report may be forwarded to plaintiff on a form similar to the sample form attached hereto as Appendix C.

b. A report reflecting the applications for tenancy submitted during the preceding reporting period, including the following information for each person submitting an application:

1. name, address, business and home telephone number, and race;
2. date of application;
3. whether a deposit was received;
4. date notified of acceptance or rejection;
5. weekly income of applicant and monthly rent of apartment sought;

*/ For purposes of this Decree, all notations of race shall be as visually observable.

6. if accepted, apartment chosen;
7. if rejected, reason therefor;
8. name of person or persons who decided to accept or reject the application;
9. if neither accepted nor rejected, status or disposition of application.

This report may be forwarded to plaintiff on a form similar to the sample form attached hereto as Appendix D. For each rejected nonwhite applicant, the report shall include a detailed statement of the reason(s) for rejection and supporting information.

c. A list of vacancies during the preceding quarter, including the date the apartment was placed on the market */ and the date each apartment was rented or otherwise committed for rental.

d. Reports filed pursuant to this Order shall also include the current statistics with respect to the race of tenants in each apartment building owned or managed by the defendant, and an account of the steps taken during the preceding reporting period to implement the program outlined in Sections I and II above, including:

1. Copies of all letters sent to apartment locators and credit checking companies, Fair Housing groups, and labor unions pursuant to Parts III and IV of this Decree.

*/ Including where appropriate, the date the Open Housing Center was contacted concerning the apartment's availability in accordance with Part III above.

2. Representative copies of all newspaper advertisements placed in the Amsterdam News and El Diario pursuant to this Order and the date of each advertisement.

3. The name, race, position and office assignment of each rental agent, superintendent and main office employee employed as of the date of the entry of this Order, an assurance that the educational program required by Part II has been conducted, and copies of all signed statements obtained in accordance with Part II of this Decree. If any rental agent refuses to sign such a statement the defendants shall include a full statement of all pertinent circumstances and of any action taken by them in relation thereto.

VII

RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that the defendant shall, for two years following the entry of this Decree, make and preserve the following records for all apartment buildings owned or managed by them:

1. The name, address, telephone number and date and time of contact of each person inquiring in person about the availability or terms of rental of an apartment therein,*/ the size of apartment sought, if known, and whether:

- A. he was offered an application;
- B. he filled out an application;
- C. he submitted an application with deposit.

*/ This may be accomplished by maintaining a guest register at each apartment building owned by the defendants.

2. A detailed record of all action taken on each inquiry and application and the reasons for such action.

3. A detailed record of all steps taken by the defendant in ascertaining the acceptability for tenancy of the applicant and the name of the employee who took such steps or who approved or rejected the application.

4. All records which are the source of, or contain any of the information pertinent to defendant's obligations under this Order. Representatives of the plaintiff shall be permitted to inspect and copy all pertinent records of the defendant at any and all reasonable times, provided, however, that the plaintiff shall endeavor to minimize any inconvenience to the defendant from the inspection of such records.

VIII

It is further ORDERED that for a period extending two years from the entry of this Decree, the defendant shall, at least twenty (20) days prior to the event, report to counsel for the plaintiff:

1. Any new ownership or management interests in residential property, acquired by the defendant.

2. The divestment through transfer or sale, of any ownership or management interests in residential property.

IX

It is further ORDERED that for a period of two years after the entry of this Decree the defendant shall advise counsel for plaintiff, in writing, of all complaints,*/ from

*/ For purposes of this Decree, "complaints" shall mean any information which comes to the attention of the defendant or its officers from whatever source received, which indicates a possible denial of equal housing opportunities under the Fair Housing Act, 42 U.S.C. 3601 et seq., or a potential violation of this Decree.

whatever source, received by the defendant regarding equal opportunity in housing at properties owned and/or managed by Trump Management, Inc. In addition, plaintiff shall, for a period of two years after the entry of this Decree, notify the defendant of all complaints received by the plaintiff.

Except where the plaintiff determines that there exists a need for emergency relief threatening the effectiveness of this Decree, the plaintiff shall afford the defendant fifteen (15) days from the date notice of such a complaint is received to investigate the complaint and provide plaintiff with an explanation of the information contained in the complaint. If the complaint is determined to be valid by either party, plaintiff shall recommend what steps it believes to be necessary to correct the conditions leading to the complaint, and shall afford the defendants an additional seven (7) days to effectuate appropriate steps to remedy the conditions leading to the complaint and to overcome any continuing effects of the alleged discriminatory actions before applying to the court for a motion to compel compliance with this Decree, or any other additional judicial relief.

X

Each party shall bear its own costs.

The Court shall retain jurisdiction of this action
for all purposes.

ORDERED this day of , 1975.

EDWARD NEAHER
United States District Judge

The undersigned apply for and
consent to the entry of this
Order:

For the Defendants:

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FRED C. TRUMP

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HENRY BRACHTL
Assistant U.S. Attorney
Eastern District of New York

APPENDIX A

37 F.R. 3429
Feb. 16, 1972

Rules and Regulations

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter I—Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development

SUBCHAPTER A—FAIR HOUSING

[Docket No. R-72-165]

PART 110—FAIR HOUSING POSTER

The purpose of this regulation is to require the display of a fair housing poster by persons subject to sections 804-806 of the Civil Rights Act of 1968 and to prescribe the content of this poster.

Notice of a proposed amendment to Title 24 to include a new Part 72 was published in the FEDERAL REGISTER ON August 4, 1971 (36 F.R. 14336). (Under the reorganization of Title 24 published in the FEDERAL REGISTER on December 22, 1971 (36 F.R. 24402), the fair housing poster will become new Part 110.) Comments were received from approximately 20 interested persons and organizations and consideration has been given to each comment.

Some comments with respect to proposed § 72.10 criticized the coverage of the proposed regulation as too broad, while other comments objected that the coverage is too narrow, and various suggestions were made for changes in coverage. Comments were directed not only to what dwellings should be included but also to the stage at which the requirement should take effect and the persons to whom it should apply. In response to the comments, § 72.10(a) (now § 110.10 (a) and (b)) has been revised to clarify the extent of coverage, to broaden coverage to the extent appropriate and to eliminate unnecessary burdens where the requirement can appropriately be narrowed or eliminated. Under § 110.10 (a) and (b), display of the prescribed poster at a single-family dwelling is not required unless the dwelling is being offered for sale or rental in conjunction with the sale or rental of other dwellings; however if a real estate

broker or agent is handling the sale or rental, he must display the poster at any place of business where the dwelling is being offered for sale or rental. With respect to all other dwellings covered by the Act, the poster must be displayed at any place of business where the dwelling is offered for sale or rental; in addition, the poster must be displayed at the dwelling, except that in the case of a single-family dwelling being offered for sale or rental in conjunction with the sale or rental of other dwellings, e.g., a subdivision, the poster may be displayed at model homes instead of at each of the individual dwellings. Finally, in the case of dwellings other than a single-family dwelling not being offered for sale or rental in conjunction with the sale or rental of other dwellings, the poster must be displayed from the beginning of construction through the end of the sale or rental process.

Several comments suggested revisions in the language of the poster described in proposed § 72.25. Such suggestions included rewriting the poster in terms of the individual's rights rather than the Act's prohibitions, adding additional prohibitions contained in the Act, emphasizing the nature of penalties for failure to post, and listing the HUD area office instead of the regional office as a location to which to send complaints. The new § 110.25 adopts the suggestion with regard to the area offices in that the poster will provide for insertion of the address of the regional or area office as appropriate. It has been decided that instead of lengthening the content of the poster by adding additional prohibitions, the poster should be made shorter and easier to understand by briefly highlighting the major prohibitions. In addition, the Equal Housing Opportunity logotype and slogan have been inserted at the top of the poster.

A comment by the Federal Home Loan Bank Board (FHLBB) recommended exempting from this regulation any person subject to a regulation of the FHLBB requiring that person to post a poster substantially similar in content to the poster described in HUD's regulation. A similar comment was made by the Board of Governors of the Federal Reserve System with respect to entities subject to supervision by any of the four Federal financial regulatory agencies. The Department will authorize a person subject to the jurisdiction of a Federal financial regulatory agency to utilize a poster prescribed in a regulation by such agency, and approved by the Department, instead of the poster prescribed by HUD. However, all of the other requirements of Part 110 will remain fully applicable regardless of whatever sanctions the regulatory agency prescribes for failure to comply with its regulation. This provision is set forth in § 110.25(b). The requirement, set forth in § 110.10(c), that financial institutions post and maintain a fair housing poster will not be effective until May 1, 1972, in order to allow time for the Federal financial regulatory agencies to issue appropriate regulations.

Proposed § 72.30 stated that a failure to display the poster as required would be

deemed a discriminatory housing practice, i.e., an act unlawful under sections 804, 805, and 806 of title VIII, and prima facie evidence of a violation of these sections, as applicable. There were comments favoring this provision and a comment stating that such a provision was beyond the Department's authority on the ground that title VIII prescribes the specific acts of discrimination which are unlawful. There was also a comment recommending that failure to comply should subject a person to suspension from eligibility for FHA insurance.

The Department believes that it has the authority to require a fair housing poster, and that proposed § 72.30 does not prescribe a new violation not provided for in title VIII. Rather, the section provides an appropriate evidentiary mechanism for assisting in the determination of whether a violation of title VIII has occurred. For purposes of clarity, the provision has been combined with proposed § 72.35—complaints—into a new § 110.30—Effect of failure to display poster—and the combined text shortened. Under § 110.30, when a person claiming to have been injured by a discriminatory housing practice files a complaint pursuant to Part 105—Fair Housing, a failure to display the required poster shall be deemed prima facie evidence of such practice.

The comment with respect to application of additional sanctions is rejected, since such sanctions as well as others are provided in the Affirmative Fair Housing Marketing Regulations published January 5, 1972 (37 F.R. 75), for failure to make the posting required at FHA project sites by § 200.620(f) of that regulation. Although Part 110 is applicable to some persons who are not covered by the Affirmative Fair Housing Marketing regulations, the Department considers that the insertion in Part 110 of the sanctions proposed in the comment is not appropriate.

Accordingly, a new Part 110 is added to Title 24 to read as follows:

Subpart A—Purpose and Definitions

- Sec.
110.1 Purpose.
110.5 Definitions.

Subpart B—Requirements for Display of Posters

- 110.10 Persons subject.
110.15 Location of posters.
110.20 Availability of posters.
110.25 Description of posters.

Subpart C—Enforcement

- 110.30 Effect of failure to display poster.

AUTHORITY: The provisions of this Part 110 are issued under section 7(d) of the Department of Housing and Urban Development Act of 1965 (42 U.S.C. 3535(d)).

Subpart A—Purpose and Definitions

§ 110.1 Purpose.

The regulations set forth in this part contain the procedures established by the Secretary of Housing and Urban Development with respect to the display of a fair housing poster by persons subject to sections 804–806 of the Civil Rights Act of 1968, 42 U.S.C. 3604–3606.

§ 110.5 Definitions.

(a) "Department" means the Department of Housing and Urban Development.

(b) "Discriminatory housing practice" means an act that is unlawful under section 804, 805, or 806 of title VIII.

(c) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(d) "Family" includes a single individual.

(e) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

(f) "Secretary" means the Secretary of Housing and Urban Development.

(g) "Fair housing poster" means the poster prescribed by the Secretary for display by persons subject to sections 804-806 of the Civil Rights Act of 1968.

(h) "The Act" means title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601 et seq.

(i) "Person in the business of selling or renting dwellings" means a person as defined in section 803(c) of the Act.

Subpart E—Requirements for Display of Posters

§ 110.10 Persons subject.

(a) Except to the extent that paragraph (b) of this section applies, all persons subject to section 804 of the Act, Discrimination in the Sale or Rental of Housing, shall post and maintain a fair housing poster as follows:

(1) With respect to a single-family dwelling (not being offered for sale or rental in conjunction with the sale or rental of other dwellings) offered for sale or rental through a real estate broker, agent, salesman, or person in the business of selling or renting dwellings, such person shall post and maintain a fair housing poster at any place of business where the dwelling is offered for sale or rental.

(2) With respect to all other dwellings covered by the Act:

(i) A fair housing poster shall be posted and maintained at any place of business where the dwelling is offered for sale or rental, and

(ii) A fair housing poster shall be posted and maintained at the dwelling, except that with respect to a single-family dwelling being offered for sale or rental in conjunction with the sale or rental of other dwellings, the fair housing poster may be posted and maintained at the model dwellings instead of at each of the individual dwellings.

(3) With respect to those dwellings to which subparagraph (2) of this paragraph applies, the fair housing poster must be posted at the beginning of construction and maintained throughout the period of construction and sale or rental.

(b) This part shall not require posting and maintaining a fair housing poster:

(1) On vacant land, or

(ii) At any single-family dwelling, unless such dwelling

(a) Is being offered for sale or rental in conjunction with the sale or rental of other dwellings in which circumstances a fair housing poster shall be posted and maintained as specified in paragraph (a) (2) (ii) of this section, or

(b) Is being offered for sale or rental through a real estate broker, agent, salesman, or person in the business of selling or renting dwellings in which circumstances a fair housing poster shall be posted and maintained as specified in paragraph (a) (1) of this section.

(c) All persons subject to section 805 of the Act, Discrimination in the Financing of Housing, shall post and maintain a fair housing poster at all their places of business which participate in the financing of housing.

(d) All persons subject to section 806 of the Act, Discrimination in the Provision of Brokerage Services, shall post and maintain a fair housing poster at all their places of business.

§ 110.15 Location of posters.

All fair housing posters shall be prominently displayed so as to be readily apparent to all persons seeking housing accommodations or financial assistance or brokerage services in connection therewith as contemplated by sections 804-806 of the Act.

§ 110.20 Availability of posters.

All persons subject to this part may obtain fair housing posters from the Department's regional and area offices. A facsimile may be used if the poster and the lettering are equivalent in size and legibility to the poster available from the Department.

§ 110.25 Description of posters.

(a) The fair housing poster shall be 11 inches by 14 inches and shall bear the following legend:



**EQUAL HOUSING
OPPORTUNITY**

We Do Business in Accordance With the
Federal Fair Housing Law

(Title VIII of the Civil Rights Act of 1968)

IT IS ILLEGAL

TO DISCRIMINATE AGAINST

ANY PERSON BECAUSE OF RACE,

COLOR, RELIGION, OR NATIONAL ORIGIN

- In the sale or rental of housing or residential lots.
- In advertising the sale or rental of housing.

- In the financing of housing.
- In the provision of real estate brokerage services.
- Blockbusting is also illegal.

Anyone who feels he has been discriminated against should send a complaint to:

U.S. Department of Housing and Urban Development, Assistant Secretary for Equal Opportunity, Washington, D.C. 20410

or
HUD Region or

[Area Office stamp]

(b) The Assistant Secretary for Equal Opportunity may grant a waiver permitting the substitution of a poster prescribed by a Federal financial regulatory agency for the fair housing poster described in paragraph (a) of this section. While such waiver remains in effect, compliance with the posting requirements of such regulatory agency shall be deemed compliance with the posting requirements of this part. Such waiver shall not affect the applicability of all other provisions of this part.

Subpart C—Enforcement

§ 110.30 Effect of failure to display poster.

Any person who claims to have been injured by a discriminatory housing practice may file a complaint with the Secretary pursuant to Part 105 of this chapter. A failure to display the fair housing poster as required by this part shall be deemed prima facie evidence of a discriminatory housing practice.

Effective date. This part shall be effective February 25, 1972, except for § 110.10(c) which shall be effective May 1, 1972.

SAMUEL J. SIMMONS,
Assistant Secretary
for Equal Opportunity.

[FR Doc.72 2262 Filed 2-15-72;8:45 am]

APPENDIX B

37 F.R. 6700
4/1/72

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Equal
Opportunity

[Docket No. R-72-108]

ADVERTISING GUIDELINES FOR FAIR HOUSING

Notice of Statement of Policy

In order to facilitate and promote compliance with the requirements of Title VIII of the Civil Rights Act of 1968, and particularly section 804(c) thereof (42 U.S.C. 3601, 3604(c)) regarding notices, statements or advertisements, the Department of Housing and Urban Development has prepared guidelines to indicate graphic and written references that are appropriate for the preparation, publication, and general use of advertising matter with respect to the sale or rental of a dwelling as defined by the Act.

Notice of a proposed statement of policy was published in the FEDERAL REGISTER on May 21, 1971 (36 F.R. 9266). Comments were received from 26 interested

persons and organizations and consideration has been given to each comment.

Several comments observed that the proposed policy statement was at times unnecessarily limited to the field of newspaper advertising. In response to the comments, the policy statement has been revised in several places to clarify that the guidelines apply to advertisements in all media, including, e.g., television and radio, as well as to advertising agencies and other persons who use advertising.

Several organizations suggested additional catchwords connoting a discriminatory effect for inclusion in section A-3. That section has been expanded to include several additional terms which may have a discriminatory effect when used in a discriminatory context.

In response to other comments, section A-6 has been revised to clarify how directional references could be employed in a discriminatory context with an ethnically, as well as a racially, discriminatory effect. Also, section A-7 has been added relating specifically to designation of religious, ethnic or racial facilities to identify an area or neighborhood.

A number of comments indicated that human models or Equal Opportunity advertisements can and have been used selectively to promote the development of racially exclusive communities. A new section C-4 has been added in order to meet this specific problem. The previous human models section has been clarified by revision and reorganization in the new section C, in light of comments which indicated confusion or uncertainty surrounding the use of human models.

In response to publishers' comments, Table I has been simplified and references to minimum type sizes limited to a recommendation that the type should be bold display face and no smaller than eight points.

A number of organizations suggested the inclusion of a publisher's notice to appear with real estate advertising. A suggested notice has been included as Table III, in lieu of the provision in the proposed guidelines for direct notification to all firms or persons using the advertising services of a publisher. This provision was removed in light of objections that such notification would be unworkable or would impose great hardship since a large volume of real estate advertising is placed by a great number of persons on a nonrecurring basis.

Finally, a number of minor editorial or organizational changes have been made in order to clarify or simplify the advertising guidelines.

Several organizations suggested that the guidelines make specific reference to the roles of other enforcement agencies, including the Department of Justice and local agencies. These comments suggested that the guidelines specify that they do not alter or affect conciliation agreements or court orders obtained by these agencies, as well as by the Department. Such a disclaimer appears to be unnecessary, since there is nothing in the guidelines to indicate an intent to

alter or affect agreements or orders obtained by the Department and other agencies.

This document is issued pursuant to section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

The statement of Policy reads as follows:

PUBLICATION GUIDELINES FOR COMPLIANCE WITH TITLE VIII OF THE CIVIL RIGHTS ACT OF 1968

POLICY STATEMENT

Section 804(c) of title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3604(c), makes it unlawful to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling (any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereof of any such building, structure, or portion thereof) that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation or discrimination.

These advertising guidelines are being issued for the purpose of assisting all advertising media, advertising agencies, and all other persons who use advertising to make, print, or publish or cause to be made, printed, or published any classified or display advertisement with respect to the sale or rental of a dwelling by the owner or his agent, in compliance with the requirements of title VIII.

Conformance with these guidelines will be considered in evaluating compliance with title VIII in connection with investigations by the Assistant Secretary of advertising practices and policies under the title.

A. *The use of words, phrases, sentences and visual aids which have a discriminatory effect.* The following words, phrases, symbols, and forms typify those most often used in residential real estate advertising to convey either overt or tacit discriminatory intent. Their use should therefore be avoided in order to eliminate their discriminatory effect. In considering a complaint under title VIII, the Assistant Secretary will normally consider the use of these and comparable words, phrases, symbols, and forms to indicate possible violation of the title and to establish a need for seeking resolution of the complaint. If it is apparent from the context of the usage that discrimination within the meaning of the Title is likely to result.

1. *Words descriptive of dwelling, landlord, and tenant.* White private home, Colored home, Jewish home.

2. *Words indicative of race, color, religion, or national origin.* Negro, Hispano, Mexican, Indian, Oriental, Black, White, WASP, Hebrew, Irish, Italian, European, etc.

3. *Catch words.* Restricted, ghetto, disadvantaged. Also, words such as private, integrated, traditional, "board approval" or "membership approved" if used in a discriminatory context.

4. *Symbols or logotypes.* Symbols or logotypes which imply or suggest race, color, religion, or national origin.

5. *Colloquialisms.* Locally accepted words or phrases which imply or suggest race, color, religion, or national origin.

6. *Directions to the real estate for sale or rent (use of maps or written instructions).* References to real estate location made in terms of racially or ethnically significant landmarks such as an existing Black de-

velopment (signal to Blacks) or an existing development known for its exclusion of minorities (signal to Whites). Specific directions given from a racially or ethnically significant area.

7. *Area (location) description.* Use of religious, ethnic, or racial facilities to describe an area, neighborhood, or location.

B. *Selective use of advertising media or content with discriminatory effect.* The selective use of advertising in various media and with respect to various housing developments or sites can lead to discriminatory results and may indicate a violation of title VIII.

1. *Selective geographic impact.* Such selective use may involve the strategic placement of billboards, brochure advertisements distributed within a limited geographic area by hand or in the mail, or advertising in particular geographic coverage editions of major metropolitan newspapers, or in local newspapers which are mainly advertising vehicles for reaching a particular segment of the community, or in displays or announcements only in selected sales offices.

2. *Selective use of equal opportunity slogan or logo.* Such selective use may involve using the equal opportunity slogan or logo in advertising reaching some geographic areas, but not others, or with respect to some properties but not others.

3. *Selective use of human models.* Such selective advertising may also involve the use of human models primarily in media that cater to one racial or ethnic segment of the population that is not balanced by a com-

plementary advertising campaign that is directed at other groups, or the use by a developer of racially mixed models to advertise one of the developments and not others.

C. *Policy and practices guidelines.* The following guidelines are offered as suggested methods of assuring equal opportunity in real estate advertising:

1. *Guidelines for use of logotype, statement, or slogan.* All advertising of residential real estate for sale or rent can contain an Equal Housing Opportunity logotype, statement or slogan as a means of educating the homeseeking public that the property is available to all persons regardless of race, color, religion, or national origin. Table 1 (see appendix) indicates suggested sizes for the use of the logotype. In all space advertising which is less than 4 column inches of a page in size, the Equal Housing Opportunity slogan should be used. The advertisement may be grouped with other advertisements under a caption which states that the housing is available to all without regard to race, color, religion, or national origin. Alternatively, 3-5 percent of the advertisement copy may be devoted to a statement of the equal housing opportunity policy of the owner or agent. Table 2 (see appendix) contains copies of the suggested Equal Housing Opportunity logotype, statement and slogan.

2. *Guidelines for use of human models.* Human models in photographs, drawings, or other graphic techniques may be used to indicate racial inclusiveness. If models are used in display advertising campaigns, the models should be clearly definable as reasonably representing both majority and minority groups in the metropolitan area. Models, if used, should indicate to the general public that the housing is open to all without regard to race, color, religion, or national origin, and is not for the exclusive use of one such group.

3. *Guidelines for notification of Fair Housing Policy.* (a) *Employees.* All publishers of advertisements, advertising agencies, and firms engaged in the sale or rental of real estate should provide a printed copy of their nondiscriminatory policy to each employee and officer.

(b) *Clients.* All publishers of advertisements and advertising agencies should post a copy of their nondiscrimination policy in a conspicuous place wherever persons come to place advertising and should have copies available for all firms and persons using their advertising services.

(c) *Publisher's notice.* All publishers are encouraged to publish at the beginning of the real estate advertising section a notice such as that appearing in Table 3 (see appendix).

Effective date. This statement of policy shall be effective May 1, 1972.

SAMUEL J. SIMMONS,
Assistant Secretary
for Equal Opportunity.

APPENDIX

The following three tables may serve as a guide for the use of the Equal Housing Opportunity logotype, statement, slogan, and publisher's notice for display advertising:

TABLE I

A simple formula can guide the real estate advertiser in using the Equal Housing Opportunity logotype, statement, or slogan. If other logotypes are used in the advertisement, then the Equal Housing Opportunity logotype should be of a size equal to the largest of the other logotypes; if no other logotypes are used, then the following guidelines can be used. In all instances, the type should be bold display face and no smaller than 8 points.

Approximate size of advertisement	Size of Logotype in inches
½ page or larger.....	2 x 2.
¼ page up to ½ page.....	1 x 1.
4 column inches to ¼ page.....	½ x ½.
Less than 4 column inches.....	(¹).

¹ Do not use.

TABLE II.—ILLUSTRATIONS OF LOGOTYPE, STATEMENT, AND SLOGAN

Equal Housing Opportunity logotype.



Equal Housing Opportunity statement:
We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the Nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion or national origin.

Equal Housing Opportunity slogan:
"Equal Housing Opportunity."

TABLE III.—ILLUSTRATION OF PUBLISHER'S NOTICE

Publisher's notice:
All real estate advertised in this newspaper is subject to the Federal Fair Housing Act of 1968 which makes it illegal to advertise "any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination."

This newspaper will not knowingly accept any advertising for real estate which is in violation of the law. Our readers are hereby informed that all dwellings advertised in this newspaper are available on an equal opportunity basis.

[FR Doc.72-4983 Filed 3-31-72;8:45 a.m.]

APPENDIX C

TRUMP MANAGEMENT, INC.

DATE: _____

RE: Rental Analysis Report

THE BREAKDOWN OF PERSONS BY RACE MAKING INQUIRY IN PERSON
ABOUT THE TERMS AND AVAILABILITY OF APARTMENTS

FOR THE PERIOD OF _____ TO _____

AT _____ APARTMENTS

	WHITE	BLACK	SPANISH	OTHER	TOTAL
MADE INQUIRY					
WERE OFFERED AN APPLICATION					
FILLED OUT AN APPLICATION					
SUBMITTED DEPOSIT WITH APPLICATION					
APPLICATIONS WITHDRAWN BEFORE PROCESSING					
APPLICATION ACCEPTED					
APPLICATIONS WITHDRAWN AFTER PROCESSING					
APPLICATIONS REJECTED					
APPLICATIONS PENDING END OF PERIOD					

APPENDIX D

APPLICATIONS FOR TENANCY
AT APARTMENTS

* SS, E	HOME & BUSINESS PHONES	DATE OF INQUIRY	DATE OF APPLICA- TION	APPLI- CANT'S WEEKLY INCOME	SIZE, TYPE OF APT. DESIRED (Brs., Fur- nished)	MONTHLY RENTAL RATE	DESIRED DATE OF OCCUPANCY	DEPOSIT REC'D AND DATE	IF REJECTED, REASON AND DATE NOTIFIED	IF ACCEPTED, DATE NOTIFIED	NAME OF EMPLOYEE ACTING ON APPLICATION

two or more single persons are applying for one apartment, please so indicate.

730 1529

U.S.A. VS. FRED C. TRUMP, INC, ET AL

DATE	FILINGS—PROCEEDINGS	AMOUNT REPORTED IN EMOLUMENT RETURNS	
10/15/73	Complaint filed. Summons issued.	1	JS5
10-20-73	Summons returned & filed/executed.	2	
11/2/73	Notice of Appearance for defts .	3	
11/7/73	By NEAHER, J. - Order dated 11/5/73 filed extending time for the defts to answer to 11/26/73	4	
11-15-73	Pltff's first interrogatories to defts filed.	5	
11-26-73	By NEAHER, J. - Order dtd 11-23-73 extending time to answer the complaint to 12-3-73 filed.	6	
12/4/73	By NEAHER, J. - Order dated 11/30/73 filed extending time for the defts to answer to 12/10/73	7	
12-12-73	Notice of motion ret 1-11-74 for an order dismissing the complaint & memorandum of law in support of motion filed.	8/9	
12-12-73	Counterclaim filed.	10	
1-8-74	Notice of motion and memorandum of law to dismiss defts' counterclaim, ret 1-11-74 at 10 A.M. filed.	11/12	
1-8-74	Unreported orders cited in memo of U.S. in opposition to motion to dismiss filed.	13	
1-8-74	Memorandum of U.S. in response to affidavits of Donald Trump & Roy Cohn filed.	14	
1-15-74	Before NEAHER, J. Case called Adj'd to 1/25/74		
1/16/74	By NEAHER, J. - Order dated 1/15/74 filed that the deft's motion to dismiss is adj'd to 1/25/74	15	
1-22-74	Defts' reply memorandum of law in support of motion to dismiss counterclaim filed.	16	
1-24-74	Notice of motion to compel defts to answer pltff's interrogatories ret. 1-25-74 @ 10:00 A.M. and memorandum of law filed.	17/18	
1-25-74	Before NEAHER, J - Case called for hearing on motions to dismiss complaint & counterclaim. Motions argued. - Defts' motion to dismiss denied as indicated. Deft has 2 weeks to prepare interrogatories. Order to be submitted. Pltff's motion to dismiss defts' counterclaim granted. Order to be submitted.		
2/6/74	By NEAHER, J. - Order dated 2/5/74 filed that the deft's motion for an order dismissing the complaint is denied, etc. (see order)	19	
2-8-74	Deft's answer to complaint for injunction filed.	20	
2-8-74	Defts' first demand for interrogatories to pltff filed.	21	
2-28-74	Stenographer's transcript dtd 1-25-74 filed.	22	

(cont'd)

REGISTERED MAIL

June 18, 1974

Mrs. Dorothy Chojecki
Manager
Eastern Transcription Service
Lower Concourse
Roosevelt Field Shopping Center
Garden City, New York 11530

Re: Transcription of tapes in the case of
United States v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Dear Mrs. Chojecki:

Enclosed herein please find tapes recorded on May 3, 1974, together with letter dated June 17, 1974, from Henry A. Brachtl, Esq., Assistant U. S. Attorney, which letter is self-explanatory.

Kindly send the original and one copy of the transcript of the recording to this office together with the enclosed tapes.

Thank you for your courtesy and cooperation in this matter.

Very truly yours,

VINCENT A. CATOGGIO
United States Magistrate
Eastern District of New York

Encls.

REGISTERED NO. 12218

POSTMARK OF

Value \$ <i>NV</i>	Special Delivery \$
Reg. Fee \$ <i>pd</i>	Return Receipt \$ <input checked="" type="checkbox"/>
Handling Charge \$	Restricted Delivery \$
Postage \$ <i>pd</i>	<input type="checkbox"/> AIRMAIL
POSTMASTER (By) <i>J</i>	



* G. P. O. : 1973-490-530

FROM *V. A. CATTOGGIO*
US Registered
225 Cottage Ave CH
 TO *Mrs Dorothy Chopicki*
Chowan Transcription Service
Chowan County, NC 27115-22

SENDER: Be sure to follow instructions on other side

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S)
(Additional charges required for these services)

Show to whom, date and address where delivered Delivery ONLY to addressee

RECEIPT

Received the numbered article described below

REGISTERED NO. <i>12218</i>	SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)
CERTIFIED NO.	
INSURED NO.	
DATE DELIVERED <i>6-14-78</i>	SIGNATURE OF ADDRESSEE'S AGENT, IF ANY <i>D. Chopicki</i>
	SHOW WHERE DELIVERED (Only if requested, and include ZIP Code)

JDP:HAB:eh
F. #730959

June 17, 1974

Mrs. Dorothy Chojecki
Manager
Eastern Transcription Service
Lower Concourse
Roosevelt Field Shopping Center
Garden City, New York 11530

Re: United States v. Fred C. Trump, et al.,
U.S.D.C., E.D.N.Y., Civil Action
No. 73 C 1529
Date of Hearing - May 3, 1974
Before - Magistrate Vincent Catoggio

Dear Mrs. Chojecki:

We would appreciate your causing the electronic recording of the testimony in the above-mentioned proceeding to be stenographically transcribed. This Office, of course, will assume the expense of the transcript for one copy at the prevailing rate plus the original which must be filed with the office of the United States Magistrates.

Our need for the transcript is pressing, and we would appreciate your efforts to expedite completion and delivery.

Very truly yours,

DAVID G. TRAGER
United States Attorney

By:

HENRY A. BRACHTL
Assistant U. S. Attorney

Copy:

Hon. Vincent Catoggio
United States Magistrate
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

OCTOBER 24, 1974

B e f o r e:

NEAHER, J.

AT 10:00 A.M.

CIVIL MOTION

73 C 1529 U.S.A.

-vs-

~~XXXXXXXXXXXX~~
FRED C. TRUMP, ET AL

APPLICATION OF THE U.S. THAT DEFTS MOTION FOR SANCTIONS
BE HEARD, DENIED WITH PREJUDICE & STRICKEN AFTER HEARING.

APPEARANCES:

DAVID G. TRAGER, U.S. ATTY.
BY: H.A. BRACHTL, AUSA.

FOR DEFTS

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
) CIVIL ACTION NO.
) 73 C 1529 (EN)
 v.)
)
 FRED C. TRUMP, DONALD TRUMP)
 and TRUMP MANAGEMENT, INC.,)
)
 Defendants.)
 _____)

AFFIDAVIT

WASHINGTON)
) ss
 DISTRICT OF COLUMBIA)

DONNA F. GOLDSTEIN, being duly sworn, deposes and
says:

1. I am an attorney in the Civil Rights Division of
the Department of Justice and one of the counsel for the
United States in the above-styled action. I am a member of
the bar of the State of Pennsylvania. I make this affidavit
in response to defendants' motion and supporting papers which
accuse me of threatening prospective witnesses and of other
improper conduct in the discharge of my responsibilities in
this case.

2. I have read the affidavits of Carol R. Falcone and
Thomas Miranda and the signed statements of Paul and Paula
Ziselman. While I interviewed each of these individuals to
determine if they had information pertinent to this case, I
did not do any of the unlawful or improper things alleged

in their statements, and, on the contrary, interviewed each in a fair and objective way to ascertain the facts. While a complete response to the statements of these individuals must await the hearing on the pending motion I think it important to immediately respond at least briefly, to the principal allegations, and I do so as follows:

(a) I never harassed Ms. Falcone, nor did I threaten her with perjury, jail, or with anything else. I did not accuse her of any misconduct with regard to her business or money, or of dating Donald Trump, and have no information about these matters. In fact, I made no accusations at all. I did not tell Ms. Falcone that any phones were tapped, or that she was guilty, and in fact, I have no knowledge of any tapped phones and I am sure that the Civil Rights Division does not tap phones or cause them to be tapped. I did not act in a hostile manner towards her. In fact, the interview appeared to me friendly on both sides at all times.

(b) I never harassed Mr. Miranda, and I never called upon him "to go against Trump Management" by lying. On the contrary, I asked him to tell the truth. I did not tell him that unless he cooperated he would be thrown in jail, nor did I discuss my "ambitions" or winning my case. I did not persecute him, nor did I make "unyielding" threats or any other kind. While Mr. Miranda was reluctant to relate the facts because he expressed fear that Mr. Fred Trump would destroy him, or words to that effect, he described to me some racially discriminatory housing

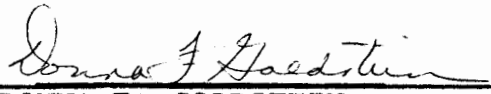
practices in which defendants have engaged. Plaintiff's answers to interrogatories filed in the case of United States v. Fred C. Trump, et al., and sworn to by Elyse Goldweber, previous counsel for plaintiff in this suit, discloses that Mr. Miranda had also provided information about discriminatory practices before I was assigned to the case. My interview with Mr. Miranda seemed to me to be friendly on both sides.

(c) I did not threaten or intimidate Mr. Ziselman, and the contents of his affidavit suggest that there must have been a misunderstanding. Prior to my interview with Mr. Ziselman, the Department of Justice had, in accordance with our normal practice, requested the FBI to interview a number of former Trump employees. Mr. Ziselman was one of them. When I was interviewing Mr. Ziselman, I mentioned that a request had been made for the FBI to contact him, but I told him that I would try and contact the FBI in time to have the agents cancel their interview with him, since it was now unnecessary. After I had completed my interview with Mr. Ziselman, I interviewed a prospective witness for plaintiff who provided details as to a rental transaction with Mr. Ziselman which differed from Mr. Ziselman's account. Accordingly, I telephoned Mr. Ziselman and asked him if he would permit me to see him again for a short time since there were now a few more matters I wished to discuss with him. He refused my request and stated that he considered it to be harassment. I responded that


I was sorry he felt that way, since it was not intended to be harassment.

(d) Mr. Manley's letter of June 13, 1974, and Mr. Cohn's affidavit completely distort the facts leading up to the records inspection in June 1974. Mr. Cohn was not present at the Trump office and has no direct information as to these events, a fact omitted from his affidavit. The facts with respect to this incident are described in detail in Appendix C to plaintiff's Report on Discovery, a copy of which is attached hereto and made a part hereof.

3. In conclusion, I wish to state that the attacks in defendants' papers on my conduct and integrity as an attorney are entirely without foundation. I hope that the matter can be disposed of at the earliest practicable date.


DONNA F. GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Sworn to before me this
2nd day of August, 1974.


NOTARY PUBLIC

My commission expires: *January 31, 1977*

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) CIVIL ACTION NO.
) 73 C 1529 (EN)
)
 FRED C. TRUMP, DONALD TRUMP)
 and TRUMP MANAGEMENT, INC.,)
)
 Defendants.)
 _____)

AFFIDAVIT

STATE OF NEW YORK)
) ss
 COUNTY OF NEW YORK)

I, ELYSE S. GOLDWEBER, being duly sworn do depose and say that:

1. I am presently employed as an examining attorney with the New York City Department of Investigation located at 111 John Street, New York, New York.

2. I was formerly employed as an attorney with the Civil Rights Division, Department of Justice, Washington, D. C. from September 19, 1972 until May 24, 1974.

3. While employed by the Department of Justice, I participated in the preparation and the pre-trial stage of United States v. Fred Trump, et al., Civil Action No. 73 C 1529 (EN).

4. Prior to the institution of the above-mentioned lawsuit, I interviewed Mr. Thomas Miranda who was formerly

employed by Trump Management, Inc. as a superintendent at Kendall Hall Apartments, 41-10 Bowne Street, Flushing, New York. The purpose of this interview was to determine what, if anything, Mr. Miranda knew about discriminatory practices on the part of Trump Management, Inc.

5. Mr. Miranda related to me that Mr. Hyman, Mrs. Williams & a woman called Sophie whose name he did not recall, all of Trump Management, Inc. had instructed him to attach a separate sheet of paper to all applications received from prospective black apartment seekers and that he was to write a big "C" on such attachment so as to indicate to Trump Management, Inc. that the application being considered was from a "colored" person. Furthermore, Mr. Miranda stated to me that he did this every time a black person applied for an apartment.

6. Mr. Miranda also stated to me during this interview that he was afraid that the Trumps would have him "knocked off", or words to that effect, because he told me about their allegedly discriminatory practices. He was reluctant to have his name disclosed.

7. After this interview, which was in all respects friendly, I had no further personal contact with Mr. Miranda. When it became necessary to disclose his identity, I sent a letter in the form attached hereto to him and to the other

persons who had provided information about Trump Management, Inc. The letter was run off on an MTST machine, and while in accordance with Justice Department practice, only one sample copy was retained (the one addressed to Phyllis Kirschenbaum), Justice Department records disclose that an identical letter was sent to Mr. Miranda and fourteen others.

Elyse S. Goldweber
ELYSE S. GOLDWEBER

Subscribed and sworn to before me
this 5th day of August, 1974.

Evelyn Sommer
NOTARY PUBLIC

My commission expires:

EVELYN SOMMER
Notary Public, State of New York
No. 24-4502158
Qualified in Kings County
Commission Expires March 30, 1975

T. 11/5/73

NOV 5 1973

OSP:PUS:MS:Glickler
DJ 173-52-28

Ms. Phyllis Kirschenbaum
1833 Green Parkway
Brooklyn, New York 11223

Re: United States v. Fred C. Trump,
Donald Trump and Trump Management, Inc.

Dear Ms. Kirschenbaum:

I am sure that you remember that, during the last few months, I spoke with you about your experiences with Trump Management, Inc. Based on the information you and many other people gave us, the Department of Justice recently filed a lawsuit in the federal court in Brooklyn alleging that Fred C. Trump, Donald Trump and Trump Management, Inc., have violated the Fair Housing Act by engaging in racial discrimination. You may have heard about the court suit already.

In a court suit like this, the persons and the company which are charged with having broken the law have a right to find out the names of the people whom they are charged with discriminating against. Accordingly, if the defendants so request, your name will have to be furnished to them in accordance with court rules.

It may be that the lawyers representing the Trumps will want to interview you. The main thing is that you have nothing to worry about. If you wish to talk to them, you have a right to do so. If you do not wish to talk to them, you have a right not to.

cc: Records
Chrono
Goldweber
~~Trial File~~
Kosack-Hold
Reichard-Hold

Under court rules, the defendants can subpoena you to testify at a deposition, where you would be under oath and a court reporter would take down what you say. A lawyer for both sides is present at such a deposition, and what you say cannot be misunderstood since it is taken down by the court reporter word for word. If you would prefer to be interviewed in this way (at a deposition), do not hesitate to tell that to anybody who wants to interview you at your home or place of work.

It may be that a lawyer or a person representing the Trumps will want you to sign a statement. You have a right to sign one or not to sign one, as you wish. It is often advisable, however, to obtain a lawyer's help before agreeing to sign a statement, because if you do sign it, then the Trumps can use it in the court case in the event you testify later. You might be well advised to hold any statement that anyone asks you to sign in your possession for a few days so that you can think about it and recall all the events that took place. Then, if you decide to sign it, you can at least be sure that you have had a chance to remember everything. Also, if you ever do sign a statement, make sure you get to keep a copy for yourself.

If someone representing the Trumps does contact you, I would very much appreciate your letting me know right away. Please call me (collect) at (202) 739-4132. If I am unavailable when you call, I will return your phone call as soon as possible. It is very important that you keep me informed about this.

Finally, let me repeat that you have nothing to worry about. You do not have to talk to anyone or sign

any statement. If you do talk to anyone or sign a statement, I am sure you will just tell the truth.

Sincerely,

J. STANLEY POSTINGER
Assistant Attorney General
Civil Rights Division

By:

ELYSE E. GORMAN
Attorney
Housing Section

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) CIVIL ACTION NO.
) 73 C 1529 (EN)
)
 FRED C. TRUMP, DONALD TRUMP)
 and TRUMP MANAGEMENT, INC.,)
)
 Defendants.)
 _____)

AFFIDAVIT

WASHINGTON)
) ss
 DISTRICT OF COLUMBIA)

FRANK E. SCHWELB, being duly sworn, deposes and says:

1. I am the Chief of the Housing Section of the Civil Rights Division, Department of Justice and in supervisory charge of the above-styled litigation on behalf of the United States. I make this affidavit in support of our request that an Order be entered herein directing expedited discovery and designating an officer of this Court to supervise depositions with respect to defendants' motion to hold one of plaintiff's attorneys in contempt and for a cease and desist order against the United States.

2. On or about July 26, 1974, defendants filed with this Court a Notice of Motion praying that Donna Goldstein, one of plaintiff's counsel in this action, be adjudged in contempt of this Court for alleged coercion and threats against

prospective witnesses, and that the United States be ordered to cease and desist from such alleged unlawful conduct. The Notice of Motion is purportedly supported by the affidavits of Carol R. Falcone and Thomas Miranda, former employees of defendants, and by the signed but unsworn statements of two former employees, Paul and Paula Ziselman. Also attached to the motion is an affidavit by Roy Cohn, one of defendants' counsel, which purports to describe a number of events at which he was not present and which did not occur in the manner described by him. The papers filed on behalf of defendant call into question the professional conduct and reputation of Donna F. Goldstein, an attorney on the staff of this Section, with whom I am well acquainted and whom I know to have an excellent reputation, both with respect to her legal ethics and in relation to her professional competence. I am satisfied that the allegations of improper conduct against her are without foundation and therefore constitute an abuse of the processes of this Court.

3. In view of the nature of the allegations against Ms. Goldstein, the United States requests that the matter be expeditiously handled in accordance with 42 U.S.C. 3614 so that the factual issues may be resolved and Ms. Goldstein's reputation cleared. We further ask that the evidentiary hearing be held on August 16, 1974 as scheduled.

4. In order to assure that no "surprise" witnesses be called by defendant to further attack Ms. Goldstein's reputation,

plaintiff has propounded brief interrogatories to defendants inquiring into the identity and prospective testimony of all witnesses to alleged misconduct by agents of the United States. Adequate preparation for the hearing will not be possible unless this information is disclosed to the United States in time to take the depositions of possible witnesses in advance of the hearing. Paragraph 3 of the affidavit of Roy Cohn states that defendants have attached the statements of only "some" former employees as to whom Ms. Goldstein is alleged to have acted improperly, which suggests that there are supposed to be others. Accordingly, we ask that the defendants be required to answer these interrogatories within five days, unless defendants voluntarily disclose this information to plaintiff earlier.

5. The essential thrust of defendants' allegations on this motion is that Ms. Goldstein used threats and other unfair tactics in an attempt to influence the testimony of prospective witnesses. The position of the United States is that the allegations of misconduct on Ms. Goldstein's part are false and scurrilous. In order to resolve this issue, it is essential that the testimony of all witnesses, both on deposition and at the hearing, be free of threats, undue influence, or other interference from the parties or from their counsel, and that each party's right to examine and cross-examine witnesses without interruption or disruption be fully protected.

6. The most effective means to assure the orderly conduct of these depositions is to have them supervised by an officer of the Court. At least one of the witnesses to be deposed -- Mr. Miranda -- has expressed fear of reprisal from defendants on two separate occasions, to attorneys for plaintiff -- once to Elyse Goldweber and once to Donna Goldstein, as reflected in their respective affidavits. At a hearing on May 3, 1974, Honorable Vincent Catoggio, United States Magistrate, reprimanded counsel for defendants for failing to carry out their responsibilities relating to discovery and to expedite the action. Accordingly, the most effective means to assure the orderly conduct of these depositions is to have them supervised by an officer of this Court.

WHEREFORE I respectfully request on behalf of the United States that an Order to Show Cause be entered herein as prayed for. No previous application has been made for the relief here requested.

Frank E. Schwelb

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Subscribed and sworn to before me
this 2 day of August, 1974.

Valerie Prather
NOTARY PUBLIC

My commission expires: *January 31, 1977*

JDP:HAB:sm
F.#730959

BY HAND

June 14, 1974

Saxe Bacon Bolan & Manley, Esqs.
39 East 68th Street
New York, New York 10021

Attention: Scott Manley, Esq.

Re: United States v. Fred C. Trump, et al.
U.S.D.C., E.D.N.Y. Civil Action No. 73 C 1529

Dear Sirs:

We have your letter of June 14, 1974.

Your description and characterization of the conduct of Government counsel at defendants' office on June 12, 1974, is false.


Your statement that Attorney Goldstein agreed to production of defendants' documents at your offices instead of defendants' office is also false.

We are considering an appropriate response.

Very truly yours,


DAVID G. TRAGER
United States Attorney

By:


HENRY A. BRÄCHTL
Assistant U. S. Attorney

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division
Department of Justice

By:


DONNA F. GOLDSTEIN, Attorney
Housing Section

- 2 -

Saxe Bacon Bolan & Manley, Esqs.

June 14, 1974

Copy to:

The Honorable Edward R. Neaher
United States District Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201
(BY HAND)

Saxe, Bacon, Bolan & Manley

39 EAST 68TH STREET

NEW YORK, NEW YORK 10021

A. file
73 C 1529

JOHN GODFREY SAXE (1909-1953)
ROGERS H. BACON (1919-1982)

(212) 472-1400

THOMAS A. BOLAN
COUNSEL

ROY M. COHN
SCOTT E. MANLEY (ADMITTED ILLINOIS AND INDIANA)
MICHAEL ROSEN

DANIEL J. DRISCOLL

HAROLD SCHWARTZ
MELVYN RUBIN
JEFFREY A. SHUMAN
LORIN DUCKMAN

June 13, 1974

BY HAND

Henry A. Bracethl, Assistant U.S. Attorney
Donna F. Goldstein, Attorney-Civil Rights
Division
United States Department of Justice
Federal Building
Brooklyn, New York

Dear Mr. Bracethl:

I am in receipt of your letter dated today which was waiting for me at my office upon my return from the Cohen v. Cohen trial this afternoon at 5:00 p.m.

We stand ready to let you begin inspecting and copying records in U.S.A. v. Trump tomorrow morning, June 14, as per my agreement with Miss Goldstein reached over the telephone on Wednesday. While I regret the misunderstanding that led to your descending upon the Trump offices with five stormtroopers Wednesday morning banging on the doors and demanding to be allowed to swarm haphazardly through all of the Trump files and to totally disrupt their daily business routine, I do not feel that there is any point in carrying the argument any further. I would assume that your objective is the same as ours in this matter, namely, proceeding orderly with pre-trial discovery so as to enable both sides to continue preparing for a fair trial in this matter. Toward that end, we look forward to cooperating with you Friday morning at our offices.

Miss Goldstein and I agreed that the inspection would take place at my offices instead of Trump so as to not have to unnecessarily totally disrupt the Trump necessary business routine. I would assume that by your demand in your letter to inspect the materials at Trump offices that Miss Goldstein neglected to inform you of our oral agreement to the contrary.

We are ready to provide you with over 1,000 files Friday on both old and current tenants of Trump. Because Trump cannot

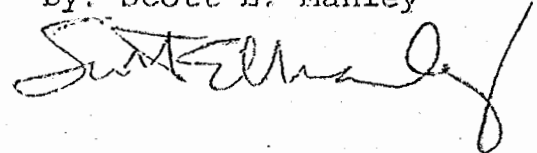
function at all with all of its current leases and files out of its offices, we will have to work out a schedule whereby as soon as you have completed inspecting and copying this very substantial amount of material that this material will be returned to the Trump office and additional material will be sent to our offices for your inspection.

With regard to the depositions of further Trump personnel tentatively scheduled to begin on June 18, I already have advised the Government that this date is impossible as both Mr. Cohn and myself will still be on trial before Justice Gomez in the Supreme Court of the State of New York in Cohen v. Cohen and Judge Gomez absolutely refuses to hear any application for even a half-day adjournment in that case. I will supply you with alternate dates as quickly as possible and I am sure we can come to an agreeable solution which will neither delay the matter unnecessarily for you nor prejudice the rights of the defendants by denying them the right to counsel in these proceedings. I would respectfully suggest that is completely unfair on your part to set forth ultimatums in the way of 3:00 deadlines to respond or else in view of the fact that you are completely aware of both Mr. Cohn and myself being on trial before Judge Gomez from 9:00 to 4:30 daily. We are completely ready to cooperate in discovery; all we require is a little time in which to assemble matter in view of our extremely heavy present litigation schedule.

Finally, I sincerely wish that at least from this point forward, that we could attempt to cooperate better in all of these matters. If your goal is to expedite discovery and to prepare for a fair trial for both sides as is ours, I think that this end would be better served by cooperation and observation of the basic courtesies normally extended between private counsel in litigation instead of continual threats by the Government and its treating the rules of civil procedure as some kind of undeviating Bible which cannot bend its timetables for even a few hours to promote the ends of justice.

Very truly yours,

SAXE, BACON, BOLAN & MANLEY
By: Scott E. Manley



SEM/ap
cc: Hon. Edward R. Neaher
United States District Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Honorable Vincent Catoggio
United States Magistrate
United States Courthouse
Eastern District of New York
225 Cadman Plaza East
Brooklyn, N.Y. 11201

Saxe, Bacon & Bolan

39 EAST 68TH STREET
NEW YORK, NEW YORK 10021

JOHN GODFREY SAXE (1909-1953)
ROGERS H. BACON (1919-1962)

(212) 472-1400

THOMAS A. BOLAN
COUNSEL

ROY M. COHN
SCOTT E. MANLEY (ADMITTED ILLINOIS AND INDIANA)

DANIEL J. DRISCOLL

September 11, 1975

MELVYN RUBIN
MICHAEL ROSEN
HAROLD L. SCHWARTZ

Honorable Edward Neaher
United States District Judge
Federal Building
Cadman Plaza
Brooklyn, New York 11201

Re: Trump Decree

Dear Judge Neaher:

I am writing to Your Honor in response to a letter of Donna F. Goldstein, Esq., United States Department of Justice, the August 5, 1975 letter of Donna Goldstein in which Ms. Goldstein alleges that Trump Management is in violation of Real Property Law §236, which prohibits the failure to rent based on the fact that an applicant has children. Ms. Goldstein's presentation omits the crucial statutory word "solely."

We submit that this section is in no way applicable to the instant proceeding, as the Consent Order entered into between the parties provides that rentals shall be pursuant to the policy which Trump Management had employed in the past, i.e., if there were children under the vacating occupancy, there could be children under the new lease.

It is thus evident that no one is denied rental solely on the basis that they have children. In fact, this is what the statute provides - that it is a violation only if the sole reason that a prospective tenant is denied rental is that he has children.

As a practical matter it is my understanding from discussions between Trump Management and this office that the only apartments in which this situation even arises are a few buildings located in the Jamaica Estates area of Queens. These buildings are not designed to accommodate the needs of young children, but rather older people who need peace and quiet and a greater amount of security than is usually found in buildings which are designed for the young.

Saxe, Bacon & Bolan

Honorable Edward Neaher
September 11, 1975
Page Two

In this one area, children cannot be as happy with the facilities as in the over thousands of other units, and what Ms. Goldstein suggests would be unfair to them. With these few exceptions, the buildings under the control of Trump Management not only welcome rental to families with younger children, but, in fact, have specifically designed a majority of their complexes to meet the needs of minors.

Respectfully,

SAXE, BACON & BOLAN, P.C.

Roy M. Cohn

Roy M. Cohn *st*

sb

cc: Donna Goldstein, Esq.

Saxe, Bacon & Bolan

39 EAST 68TH STREET
NEW YORK, NEW YORK 10021

FILE

(212) 472-1400

CABLE: SAXUM

ROY M. COHN
COUNSEL

August 11, 1975

Honorable Edward R. Neaher
United States District Judge
Cadman Plaza
Brooklyn, New York

Re: Trump Decree

Dear Judge Neaher:

The Trump organization has observed the terms of the decree, but the Civil Rights section has violated it in significant respect.

We declined to execute the decree unless language in the Civil Rights Section proposal - Article IV, Section A (bottom of p. 77), which gave the Open Housing Center the unbridled right to redistribute vacancy lists all over the place - was deleted. We pointed up the administrative difficulties this would present, and after discussion before Your Honor, the language was deleted, and the vacancy list to go to Open Housing Center - period.

Despite this, the Center has been mailing out the vacancy lists we have sent to them to other organizations, causing total confusion and extra work, as by the time the inquiry catches up with us, the list is usually obsolete. And what they are doing defeats the very purpose of the deletion. I am advised by Mr. Eskenazi of the Trump office that he has specifically asked Miss Parrish of the Center, and then Miss Goldstein to desist - and both have said they will not unless specifically directed to by Your Honor.

Secondly, Miss Goldstein advises that Article V, No. 2 - p. 13 - which provides that Trump shall adhere to its past and existing practices with respect to two-bedroom apartments and number of occupants - is in her opinion "discriminating" and should not be observed.

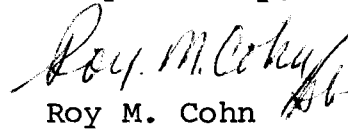
Chase, Bacon, Bolan & Mantley

Honorable Edward R. Neaher
August 11, 1975
Page Two

This is to respectfully request Your Honor to set a hearing on these ex parte decisions by the Civil Rights Section for sometime in early September (I shall be abroad on business until Labor Day.).

Hoping Your Honor has a pleasant summer, I am

Respectfully,


Roy M. Cohn

sb

A file

Saxe, Bacon, Bolan & Manley

39 EAST 68TH STREET
NEW YORK, NEW YORK 10021

JOHN GODFREY SAXE (1909-1953)
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MICHAEL ROSEN

DANIEL J. DRISCOLL

HAROLD SCHWARTZ
MELVYN RUBIN
JEFFREY A. SHUMAN
LORIN DUCKMAN

August 5, 1974

Honorable Edward R. Neaher
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States V. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Dear Judge Neaher:

I telephoned Mr. Brown of Your Honor's chambers following receipt of a call from Mr. Goldberg, one of the hoard of eager-beavers in the Civil Rights Division, who is working on the above entitled matter.

Apparently, what Mr. Goldberg was trying to tell me was that he wished to take depositions in connection with the contempt motion concerning prosecution tactics which Your Honor made returnable for next week (August 16th). Having spent the first week of August suffering through government depositions of approximately 10 more Trump employees, I hardly look forward to another set of depositions relating to a motion which has not even been heard by Your Honor as yet.

I would respectfully request that the entire matter, including what, if any, "pre-trial" should be had in connection with this motion be considered by Your Honor at one time on the already scheduled date of August 16th, at which time I shall, of course, be personally before the court.

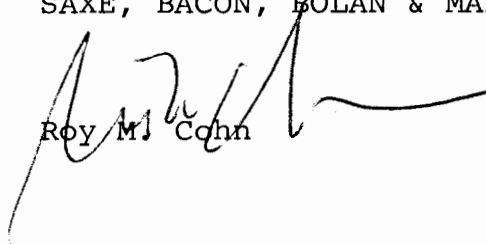
We wish also to apply to Your Honor for an order setting some boundaries on the Civil Rights Division's discovery, which is proceeding at a pace that would suggest the facts are being explored now rather than prior to the following of the complaint. The purpose of concluding discovery at an early date would be the fixing of an early trial date by Your Honor so that the preference granted by Congress under this act may be fulfilled. The defendants who have protested and continue to protest their complete innocence, are most desirous of a prompt trial.

Respectfully yours,

SAXE, BACON, BOLAN & MANLEY

By:

Roy M. Cohn



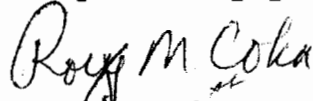
RMC:ap
BY HAND

Saxe, Bacon, Bolan & Mantley

Honorable Vincent A. Catoggio
Page Two

We assume that the matter is now academic, and we have asked Judge Neaher to fix an early trial date in this matter.

Respectfully yours,


Roy M. Cohn

sb
cc: Mr. Donald Trump
Donna Goldstein
Attorney, Housing Section

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
	)	CIVIL ACTION NO. 73 C 1529 (EN)
Plaintiff,)	
)	
v.)	
)	
FRED C. TRUMP, DONALD)	
TRUMP and TRUMP MANAGEMENT,	)	<u>REPORT OF THE UNITED STATES</u>
INC.,	)	<u>TO THE COURT ON THE STATUS</u>
	)	<u>OF DISCOVERY</u>
Defendants.)	
<hr/>		

In accordance with the instructions of the Honorable Vincent Catoggio, United States Magistrate, plaintiff, United States of America, submits its report on the status of discovery in this action. On May 3, 1974, Magistrate Catoggio made reference to the obligation of defense counsel as well as the Court to expedite the action in accordance with 42 U.S.C. 3614, and rebuked defense counsel for not having done so.

T DISCOVERY IN PROCESS : DELAYS AND DIFFICULTIES

A. Depositions

Prior to the hearing of May 3, 1974, plaintiff encountered substantial difficulties in taking any depositions because of defense counsel's continuous cancellations and rescheduling.

This activity resulted in a substantial waste of the time and resources of counsel for plaintiff, as described in detail in plaintiff's memorandum in support of its motion for sanctions, dated April 19, 1974, at pp. 4-6. Several notices of deposition were outstanding at the time of that hearing, but plaintiff agreed to postpone these until defendants had answered the interrogatories propounded to them in November of the previous year. Abbreviated and incomplete answers to these interrogatories were finally provided on May 16, 1974. (See pp. 10-13, infra). Thereafter, plaintiff attempted to reschedule depositions, as follows:

1. On May 28, 1974, Ms. Donna Goldstein, a new attorney for the plaintiff, replacing Ms. Elyse Goldweber, telephoned Mr. Scott Manley in order to advise him that the plaintiff was noticing depositions for June 18-20, 1974.*/ In deference to Mr. Cohn's busy schedule, Mr. Manley was provided with an opportunity to propose alternative dates within the next few days.

2. Between May 28 and June 3, Ms. Goldstein telephoned Mr. Manley on at least three occasions to discuss the contemplated depositions. Mr. Manley proposed no alternative dates on the two

*/ These depositions were noticed on May 30, 1974.

occasions he was reached, and failed to call back in response to the message left on the third call.

3. On June 5, 1974, Ms. Goldstein sent a special delivery letter to Mr. Manley indicating that the government intended to proceed with the depositions as noticed, since no alternative dates had been offered.

4. On June 11, counsel for the plaintiff received a letter from Mr. Manley dated June 6 cancelling these depositions on the grounds that they conflicted with Mr. Cohn's schedule, but promised to suggest alternative dates the following week.*/

5. Counsel for plaintiff periodically visited the offices of defense counsel between June 14 and June 28, 1974, as a part of the records inspection described below. On June 26, after an inquiry by counsel for plaintiff, Mr. Manley stated that firm dates for the taking of depositions would be provided no later than July 2, and that in no event would these dates be later than the third week in July.

6. Having heard nothing from defense counsel by July 3, Ms. Goldstein telephoned Mr. Manley and was told that he still could not provide firm dates for the scheduling of depositions.

*/ This letter included a list of those employees scheduled to depose who were no longer employed by the defendants. This information, which plaintiff had been attempting to secure for many months, was to be given to the plaintiff no later than May 13, 1974, at the direction of Magistrate Catoggio at the May 3 hearing.

Mr. Manley promised, however, to call back on July 8 with recommended dates.

7. Mr. Manley did not call back on July 8, or for that matter, thereafter. On July 9, plaintiff served notice on defense counsel of the scheduling of depositions of eleven agents of Trump Management for July 30 - August 2, 1974. Subpoenas were served on each of the prospective deponents.

8. On July 26, 1974, Mr. Cohn, by telephone, advised Mr. Goldberg that the eleven scheduled depositions would have to be taken on July 30-31 only, since his schedule could not permit him to attend at any other time. Yielding to these time strictures, plaintiff took the depositions of eight agents on July 30 and 31, 1974. The first attempt to take these depositions had been made on March 19, 1974.

B. Inspection of Defendants' Records

On May 6, 1974, plaintiff served and filed a Rule 34 Request for Production of Documents on defense counsel Roy Cohn.*/
On May 15, 1974, Mr. Scott Manley, an associate of Mr. Cohn, telephonically requested that plaintiff's former attorney Ms. Elyse Goldweber forward to him a copy of the Request, saying that he knew nothing about it. This was done immediately.

*/ See Appendix A.

On May 28, 1974, during the course of one of their discussions about the scheduling of depositions, Ms. Goldstein reminded Mr. Manley of the proposed records inspection. Mr. Manley again stated that he knew nothing about the proposed inspection, and requested that Ms. Goldstein forward him another copy of the Request, which she did on the same day.*/

On at least two occasions between May 28 and June 3, Ms. Goldstein telephonically reminded Mr. Manley that representatives of the plaintiff would travel to New York on June 12, 1974, to inspect records as noticed. At no time during these conversations did Mr. Manley express any objection to the inspection or indicate that the records would not be made available at the designated time and place. Defendants also filed no objection to the records inspection, nor did they suggest any alternative site or date, or any limitation on what the United States would be permitted to inspect.

On June 12, three attorneys for the United States and two law clerks arrived at 10:00 a.m. at the offices of Trump Management, 2611 West 2nd Street, Brooklyn, New York, in accordance with the notice of records inspection. The Trump agents and employees present expressed surprise at their arrival.

*/ See Appendix B.

Mr. Stuart Hyman, controller of Trump Management, asked Mr. Henry Brachtl, Assistant United States Attorney, into his office. The other attorneys, Norman Goldberg and Donna Goldstein, and the assistants, Frank Phillips and Larry Rogers, law clerks at the United States Attorney's office, remained in the anteroom of the Trump offices. After approximately ten to fifteen minutes, Mr. Hyman asked the remaining representatives of the United States into his office and stated that he had not been informed that a records inspection was scheduled. He further stated that he could not produce any records until he contacted defendants' counsel and that he had been unable to reach counsel. Ms. Goldstein placed a call to Mr. Manley from Mr. Hyman's office. Mr. Manley was not in and a message was left to have Mr. Manley contact Ms. Goldstein at the United States Attorney's office. Plaintiff's representatives then left the Trump Offices and returned to the United States Attorney's office. Contrary to the allegations in Mr. Roy Cohn's affidavit, there was no banging on doors, overreaching, or other improper conduct by any of the representatives of the United States. Mr. Cohn was not present at the Trump offices, nor were any calls placed to the United States Attorney's office by defendants or their counsel complaining about the conduct of representatives of the plaintiff.

On June 12, 1974, at approximately 11:30 a.m. Mr. Manley telephoned Ms. Goldstein at the office of the United States Attorney for the Eastern District of New York and, for the first time, expressed his objections to Plaintiff's Request. He claimed that he had communicated these objections earlier. Ms. Goldstein informed him that no objections had been transmitted, either formally or informally, and that if defendants would not permit a records inspection to begin, as noticed, plaintiff would have no recourse but to apply to the Court once again for appropriate sanctions under Rule 37(d) of the Federal Rules of Civil Procedure. After some negotiations between counsel, plaintiff was authorized to begin inspecting defendants' records on Friday, June 14, 1974, at the law offices of defense counsel.

When plaintiff's representatives arrived at these offices on the morning of June 14, Mr. Fanelli, a clerk to Mr. Manley, handed them a letter from Mr. Manley which characterized their conduct at the offices of Trump Management on June 12, as "descending upon the Trump offices with five stormtroopers . . . banging on the doors and demanding to be allowed to swarm haphazardly through all the Trump files and to totally disrupt their daily business routine." (See Letter of Mr. Manley dated June 13, 1974, a copy of which was sent to this Court.) Counsel for plaintiff responded by a brief letter of June 14 denying the veracity of these rhetorical flourishes.

From Thursday, June 13, 1974, until the completion of the records inspection, counsel for plaintiff communicated almost exclusively with Mr. Fanelli since neither Mr. Cohn nor Mr. Manley was then available. On Tuesday afternoon, June 18, 1974, after 2-1/2 days of records inspection, Mr. Fanelli informed counsel for the plaintiff that records would not be available for inspection on the following day, June 19. However, Mr. Fanelli did give assurances that records would be available on Thursday and Friday, June 20 and 21, beginning at 10:00 a.m.

On June 20, however, the records were not made available at 10:00 a.m., as agreed. At 11:30 a.m., Mr. Fanelli informed plaintiff's counsel that the automobile carrying the records had broken down and that records would not be produced until 2:00 p.m.^{*/} Records were inspected on Thursday afternoon, June 20, and Friday, June 21. On June 19 and 20 alone, plaintiff's two counsel from Washington lost a day and a half of their time for no purpose as a result of these cancellations.

^{*/} When the records arrived on Thursday afternoon, the driver of the automobile, Mr. Simon Wiss, recounted to plaintiff's counsel the many errands he had to run for Trump Management by auto that morning, and extolled the virtues and dependability of the automobile carrying the records.

On Friday, June 21, 1974, Mr. Fanelli indicated that additional records could not be available for inspection until Wednesday, June 26, 1974. Counsel for plaintiff returned to Washington, D. C. and travelled back to New York to complete the records inspection on June 26, 27, and 28, 1974. Thus, during a period of thirteen working days, records were made available for a little over seven days. Not only time but travel money could have been saved had these interruptions not occurred.

* * * *

We are reluctant to belabor the Court with the foregoing details. We believe, however, that while each item individually may be relatively minor, the total impact has been to waste a large amount of the time and money of counsel for the United States. While it is petty harassment, it seems to us harassment none the less, quite out of keeping with Magistrate Catoggio's directions of May 3. Moreover, in view of the repeated efforts to deal with defense counsel about this records inspection, the allegations in defendants' papers that the United States tried to "by-pass" counsel are without foundation in fact.

II. DEFENDANTS' FAILURE TO PROVIDE DISCOVERABLE INFORMATION REQUESTED BY PLAINTIFF

A. Defendants' Answers to Plaintiff's Interrogatories

Plaintiff's First Interrogatories to defendants were propounded on November, 1973, and were not answered or objected to for more than six months. On May 16, 1974, after two Orders of this Court directing defendants to answer the Interrogatories, defendants finally submitted their response. That submission consisted of slightly more than two pages.*/ In response to at least three interrogatories, defendants indicated that responses would be forthcoming by the following week (letter from Scott Manley of May 16, 1974)**/ but more than ten weeks since that promise was made, plaintiff is still waiting for defendants to complete their answers. As noted below, the information defendants have failed to provide goes to the heart of the case.

While this memorandum is not intended to be a substitute for a renewed Rule 37 motion dealing with the deficiencies of defendants'

*/ The unusual brevity and incompleteness of these responses may be explained, in part, by the fact that on May 15, 1974, one day before the interrogatories were due, defendant Donald Trump called former Departmental attorney Goldweber and indicated that he had only recently heard about his obligation to answer the interrogatories and wanted to know if there were any penalties for filing untimely answers. Ms. Goldweber referred Mr. Trump to his counsel.

**/ See Appendix C.

responses to Interrogatories, and while we wish to reserve our right to file such a motion in the future, we believe that a brief examination of some of defendants' responses should be brought to the Court's attention.

(a) Interrogatory 5, requests 16 items of basic information for each apartment complex owned or managed by defendants. The information sought includes a racial breakdown of the tenant force of each building. In response, defendants referred to two documents which defendants claimed to have previously furnished to plaintiff. One of those documents had in fact been furnished to plaintiff. Plaintiff has no record of ever having received the other, which is purported to be a memorandum to Ms. Goldweber dated March 15, 1973. The document that was furnished to plaintiff merely contains a list of the Trump buildings and their superintendents as of October, 1972, almost two years ago. In eight months, defendants have surely had the time to write to their superintendents and to provide racial occupancy information in at least approximate form, particularly since Donald Trump characterized the racial makeup of Trump buildings

in an affidavit December 11, 1973, but they have made no attempt to do so. Statistical information of this kind is, of course, important in cases of this kind. See United States v. Real Estate Development Corporation, 347 F. Supp. 776 (N.D. Miss. 1972). Defendants have an obligation to secure such information from their superintendents. City of Philadelphia v. Westinghouse Electric Corp., 205 F. Supp. 831 (E.D. Pa. 1962).

(b) In response to Interrogatory 7, which requests the name, address, race, job title, job location and dates of employment for each and every employee of Trump, the defendants attached Exhibit 1 to their Answers. That Exhibit, however, contains only the last name and first initial of black and Puerto Rican employees of the defendants - facts insufficient to locate them for interview - and none of the other requested information was provided.*/

*/ Plaintiff has subsequently secured some of this information during the inspection of defendants' records. The identities of former employees, of course, constitute critical information. See United States v. Youritan Construction Corp., 370 F. Supp. 643 (N.D. Calif. 1973), and cases there cited, holding that proof of discriminatory instructions to employees meets the Attorney General's burden of proof.

The names of black tenants (Interrogatory 11), complaints about racial discrimination (Interrogatory 13) and the identities of tenants who secured apartments after complaining or threatening to complain about racial policies (Interrogatory 14) have never been provided by defendants.

B. Failure to Produce Rejected Applications

In Plaintiff's Interrogatories to Defendants served on November 7, 1973, plaintiff first requested that defendants furnish certain information relating to rejected applicants. On March 28, 1974, defendant Donald Trump testified, on deposition, that there was no particular policy with respect to either retaining or destroying these records and that some of these records may still exist. (Dep. p. 33). Mr. Trump also stated that some of these records may also have been destroyed since the Interrogatories were propounded (Id., p. 99), so that defendants' capacity to answer those interrogatories calling for information as to rejected applicants was impaired, if not destroyed, by their own conduct.

During the

taking of this deposition, Mr. Cohn did, however, provide a measure of assurance that his clients would preserve all relevant records, including those pertaining to rejected applicants. (Id., pp. 99-100).

During the June 1974 records inspection and after repeated requests for the production of rejected applications, plaintiff was provided with a copy of a memorandum from Mr. Stuart Hyman, controller of Trump Management, stating that "effective March 28, 1974" there were no rejected applications.*/ Whatever the meaning of Hyman's memorandum, it taxes credulity to suggest that between March 28, 1974 - the day that the defendants are supposed to have stopped destroying these applications - and June 28, 1974, the defendants, who have 2500 - 3000 vacancies a year (Hyman Dep. p. 73) and who have repeatedly testified through their agents that applications are closely reviewed, have not rejected a single application.**/

Defendants now go even further than Mr. Hyman's memorandum and claim that there have never been any rejected applications. Minerva Gilbert, office manager for the past seven years, who has the

*/ See Appendix D.

**/ On July 3, 1974, we sent a letter to Mr. Manley reiterating our concern that none of the rejected applications had been produced and requesting that the defendants furnish us with an explanation for the reproduction of these documents prior to this hearing but no explanation has been forthcoming.

responsibility for approving or rejecting applications, testified during the depositions taken on July 30 and 31 that she cannot recall ever having rejected a single application for tenancy. Each of the six superintendents^{*/} whose depositions were taken on July 30 and 31 likewise stated that even though they accepted applications from anyone, they have never had an application rejected by the main office. The six superintendents whose depositions were taken were also served with subpoenas directing them to bring certain documents including "records of the payment of deposits in the possession, custody or control of the deponent." Only one superintendent produced these records (Raymond Travis), the others stating that no such records existed.

Mr. Travis, superintendent at Wedgewood Hall Apartments for the past five years, also produced a book of receipts which he described as having been supplied by the main office when he was first hired as superintendent. Mr. Travis testified that he was instructed to give a receipt to each applicant when a deposit is submitted with the application. A number of these receipts are marked "refunded." While early in his deposition Mr. Travis stated that he has never had an application rejected, he later explained

^{*/} Mr. Skender Fici, Mr. Guido Lara, Mr. Walter Rohr, Mr. Daniel Boxth, Mr. Joseph Zecher and Mr. Raymond Travis.

that "refunded" signifies applications which were rejected by Ms. Gilbert. In Mr. Travis' receipt book alone, which is used for an apartment complex of only approximately 94 units, there were at least six such "refunded" receipts since the date of service of plaintiff's interrogatories in November 1973 requesting such information. Accordingly, it is apparent that rejected applications exist but that information about them has not been made available to plaintiff.

CONCLUSION

While some progress has been made in discovery following the hearing before Magistrate Catoggio, defendants remain in substantial noncompliance with their responsibilities in relation to discovery. Some of the noncompliance involves material critical to the disposition of this case, while other conduct has been of a harassing and disruptive nature. Even aside from the false and scurrilous charges assembled by defendants against one of plaintiff's counsel,* / there has been sufficient resistance to the orderly conduct of discovery to warrant consideration of a new motion

* / On or about July 26, 1974, defendants noticed a motion for a contempt citation against Ms. Goldstein. While we generally avoid the argument by inflammatory rhetoric which has characterized defense counsel's submissions, we can only say that, for reasons set forth in our other papers filed herewith, these charges are utterly fantastic.

for sanctions after present discovery proceedings have been completed.

Respectfully submitted,

Frank E. Schwelb

JAMES PORTER
Assistant United States
Attorney
Chief, Civil Division

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

NORMAN P. GOLDBERG
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Donna F. Goldstein

DONNA F. GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

APPENDIX A

T. 5-6-74 .

MAY 6 1974

JSP:FES:ESG:cmk
DJ 175-52-28

Roy M. Cohn, Esq.
Saxe, Bacon, Bolan and Manley
39 East 68th Street
New York, New York 10021

Re: United States v. Fred C. Trump, et al.,
Civil Action No. 73 C 1529

Dear Roy:

Please find enclosed two copies of Plaintiff's
Request for Production of Documents.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

cc: Records
Chrono
Goldweber
Trial File
Hold

By:
ELYSE S. GOLDWEBER
Attorney
Housing Section

APPENDIX B

T. 5/28/74
JSP:DG:mlp
DJ.175-52-28

MAY 28 1974

Scott Manley, Esq.
Saxe, Bacon, Bolan & Manley
39 East 68th Street
New York, New York 10021

Re: United States v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Dear Mr. Manley:

In response to our telephone conversation of May 28, 1974, please find enclosed a copy of Plaintiff's Request for Production of Documents, scheduled to commence on June 12, 1974. Also, please note the attached proposed schedule for continuing depositions of the agents and employees of Trump Management, Inc. Formal notice will be forthcoming. These depositions had been previously scheduled for April 18 - April 22, 1974.

Thank you for your cooperation in this matter. I look forward to hearing from you soon to confirm the attached discovery schedule.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By:

cc: Records
Chrono
Ms. Goldstein ✓
Trial File
Henry Brachtl

DONNA GOLDSTEIN
Attorney
Housing Section

Saxe, Bacon, Bolan & Manley

39 EAST 68TH STREET
NEW YORK, NEW YORK 10021

(212) 472-1400

JOHN GODFREY SAXE (1909-1953)
ROGERS H. BACON (1919-1962)

ROY M. COHN
SCOTT E. MANLEY (ADMITTED ILLINOIS AND INDIANA)
MICHAEL ROSEN

DANIEL J. DRISCOLL

HAROLD SCHWARTZ
MELVYN RUBIN
JEFFREY A. SHUMAN
LORIN DUCKMAN

MAY 21 1974
THOMAS A. BOLAN
COUNSEL

DOCKETED

MAY 22 1974

May 16, 1974 CIVIL RIGHTS

Miss Donna Goldstein
United States Department of Justice
Washington, D. C. 20530

Re: United States v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Dear Miss Goldstein:

Enclosed please find a copy of defendants' answers to plaintiff's interrogatories. It is my understanding from speaking with Miss Goldweber that you are taking her place on this case since she has left to work in New York.

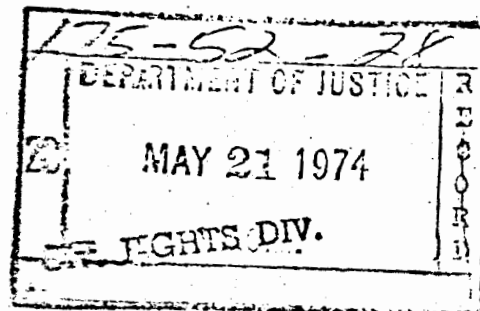
As you will note from our answers, most of the information requested by the Government in the interrogatories already has been supplied in the five examinations before trial which you already have completed. We could not make specific reference to page numbers due to the fact that the transcripts have not been completed. You will note that there are three questions requiring detailed information from records, which Stuart Egan has been compiling and hopes to complete next week. We will supply you with this information as soon as Mr. Egan completes same.

Very truly yours,

Scott E. Manley
Scott E. Manley

SEM/ew

cc: Hon. Vincent Catoggio
United States Magistrate
Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201



EN

6/27/74

To: Larry Swelli

From: ~~Mark~~ W. K. Pearson

Rejected Applications

Effective 3/20/74 we actually had no rejected applications.

However the enclosed file covers applications of prospective tenants who Cancelled out

W. K. P.

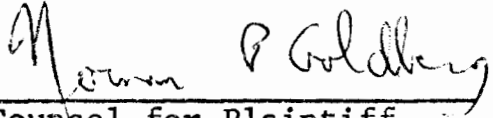
CERTIFICATE OF SERVICE

I certify that I have on this date mailed copies of
the following documents, postage prepaid, to:

Roy Cohn, Esquire
39 East 68th Street
New York, New York 10021

1. Response of the United States to
Defendants' Motion of July 26, 1974
2. Supporting affidavits
3. Order to Show Cause (proposed)
4. Memorandum of the United States
5. Plaintiff's Interrogatories to Defendants
6. Report of the United States to the Court
on the Status of Discovery

August 5, 1974


Norman P. Goldberg
Counsel for Plaintiff

Saxe, Bacon, Bolan & Manley

39 EAST 68TH STREET
NEW YORK, NEW YORK 10021

JOHN GODFREY SAXE (1909-1953)
ROGERS H. BACON (1919-1982)

(212) 472-1400

THOMAS A. BOLAN
COUNSEL

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MICHAEL ROSEN

DANIEL J. DRISCOLL

HAROLD SCHWARTZ
MELVYN RUBIN
JEFFREY A. SHUMAN
LORIN DUCKMAN

May 9, 1974

Elyse Goldweber, Esq.
Attorney, Housing Section
U. S. Department of Justice
Washington, D. C. 20530

Re: United States v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Dear Elyse:

In connection with advertising by The Trump Organization, and its support of civil rights organizations, you might remember that Fred and Donald did not recall certain specifics at the time of their depositions.

I am enclosing a letter from CORE concerning advertising and support from The Trump Organization in the past and would appreciate it if you would add it to the depositions.

Sincerely,

Enclosure

Roy M. Cohn

Frank E. Schwelb
Henry A. Brachtel, Esq.
Hon. Vincent A. Catoggio

CORE

CONGRESS OF RACIAL EQUALITY

200 West 135th Street, New York, N.Y. 10030, -212 368-8104

April 30, 1974

Mr. Donald Trump
The Trump Organization
600 Avenue Z
Brooklyn, N.Y. 11223

Dear Mr. Trump:

I am writing you concerning our recent telephone conversation and most certainly wish to thank you for the interest of participation with National CORE in our salute to Hank Aaron.

It is only through the support of thoughtful and interested individuals such as you, as well as all segments of the industrial and commercial society of our country, that the Congress of Racial Equality can continue its efforts and pursuits as it has for many years.

Last year, The Trump Organization was represented in our national publication by purchasing 1/8 page advertisement in the amount of \$250.00. This year, we are requesting that The Trump Organization duplicate last year's representation.

Many thanks for your cooperation.

Clayton S. King
Clayton S. King
National Affairs Advisor

et file

Saxe, Bacon, Bolan & Manley

39 EAST 68TH STREET
NEW YORK, NEW YORK 10021

JOHN GODFREY SAXE (1909-1953)
ROGERS H. BACON (1919-1982)

(212) 472-1400

THOMAS A. BOLAN
COUNSEL

ROY M. COHN
SCOTT E. MANLEY (ADMITTED ILLINOIS AND INDIANA)
MICHAEL ROSEN

April 17, 1974

DANIEL J. DRISCOLL

HAROLD SCHWARTZ
MELVYN RUBIN
JEFFREY A. SHUMAN
LORIN DUCKMAN

Elyse S. Goldweber
Attorney, Housing Section
United States Department of Justice
Washington, D. C. 20530

Re: JSP:ESG:eym DJ 175-52-28
United States v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Dear Elyse:

I never knew you were such a hot-tempered white female! The reason for the doubt about the ability to go forward with the continuation of depositions which have already commenced, was because I had been directed to proceed to trial in another matter. As I have advised you, the whole thing is a tempest in a teapot, as the other trial is not going ahead for a week, and we can continue depositions on Tuesday, April 23, at 9:30.

We will see you with Mr. Trump and the other witnesses next week.

Sincerely,

Roy M. Cohn

cc Hon. Edward Neaher



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number
JSP:FES:DFG:saf
DJ 175-52-28

AUG 22 1975

The Honorable Edward R. Neaher
United States District Judge
Federal Court House
225 Cadman Plaza East
Brooklyn, New York 10023

Re: United States v. Trump Management, Inc.
Civil Action No. 73 C 1529


Dear Judge Neaher:

I am writing in reference to the Consent Order in the above-styled lawsuit. We are in receipt of Mr. Roy Cohn's letter to you of August 11, 1975, which states that the United States has violated the terms of the Consent Order, and requesting that a hearing be set. We have no objection to another hearing in this matter. In that regard, I am enclosing, for your information, a copy of a recent letter from this office to Mr. Cohn advising him that certain rental practices authorized by the Consent Order are in violation of State Law.

Thank you for your continued patience and consideration in this matter.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

By: 
Donna F. Goldstein
Attorney
Housing Section



JSP:VES:DFG:saf
DJ 175-52-28

AUG 22 1975

The Honorable Edward R. Neaher
United States District Judge
Federal Court House
225 Cadman Plaza East
Brooklyn, New York 10023

Re: United States v. Trump Management, Inc.
Civil Action No. 73 G 1529

Dear Judge Neaher:

I am writing in reference to the Consent Order in the above-styled lawsuit. We are in receipt of Mr. Roy Cohn's letter to you of August 11, 1975, which states that the United States has violated the terms of the Consent Order, and requesting that a hearing be set. We have no objection to another hearing in this matter. In that regard, I am enclosing, for your information, a copy of a recent letter from this office to Mr. Cohn advising him that certain rental practices authorized by the Consent Order are in violation of State Law.

Thank you for your continued patience and consideration in this matter.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

By:

Donna F. Goldstein
Attorney
Housing Section

T. 8/4/75

AUG 5 1975

JSP:FMS:RJC:saf
DJ 175-51-28

Roy M. Cohn, Sen.
Saxe, Rosen, Cohen
& Huxley
39 E. 60th Street
New York, New York

Re: United States v. Trump Management, Inc.

Dear Mr. Cohn:

I am writing to thank Trump Management's cooperation in granting the consent order in the above-styled lawsuit. As you may recall, at the hearing on June 10, 1975, before Judge Wecher, Mr. Fred C. Trump represented that part of his rental practices included a policy of only renting to applicants with children when the vacating tenants also had children, thereby not increasing the number of rental units in his buildings occupied by children. Judge Wecher asked if such policies violated any state or city law. At that time, we were unaware of any.

It has recently come to our attention that New York State Law (specifically Section 246 of the Real Property Law) prohibits the failure to rent based on the fact that an applicant has children. Upon learning of this, I notified Fred C. Trump ^{of} of the requirements of state law to seek his cooperation in voluntarily adjusting his rental practices. However, it appears that defendant's

*/ At a recent educational program for employees that I agreed to conduct.

rental policies with respect to children has not as yet been changed to conform to state law. We are aware of at least one instance where an applicant with children was informed that she could only qualify for an apartment where the vacating tenants also had children.

Accordingly, we are requesting that Trump Management agree to amending the Consent Order by the enclosed Supplemental Consent Order, so that all practices under the Decree conform to applicable law.

Thank you for your cooperation in this matter. I look forward to hearing from you at your earliest possible convenience.

Sincerely,

J. Stanley Fortinger
Assistant Attorney General
Civil Rights Division

By:

Sonna F. Goldstein
Attorney
Housing Section

cc: Irving Eskanazi
Trump Management, Inc.

Mr. George Zuckerman
Bureau Chief, New York State
Department of Law

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
) CIVIL ACTION NO. 73 C 1529
 v.)
)
 FRED C. TRUMP, DONALD TRUMP)
 AND TRUMP MANAGEMENT INC.,) PROPOSED ORDER
)
 Defendants.)
 _____)

This matter is before the Court upon defendants' Motion to Dismiss and Motion for More Definite Statement. The pleading in question is the Complaint plaintiff filed under the 1968 Civil Rights Act, 42 U.S.C. 3601 et seq., alleging discrimination in housing. This matter is also before the Court upon plaintiff's motion to dismiss defendants' counterclaim.

After careful consideration of these matters the Court concludes as follows:

1. For purposes of a motion to dismiss, the allegations of the complaint are deemed admitted and are to be construed in the light most favorable to plaintiff. A complaint may be dismissed for failure to state a claim only when it appears beyond doubt that plaintiff would be unable to prove a set of facts which would entitle him to relief. Conley v. Gibson, 355 U.S. 41, 45-46 (1957); United States v. Georgia Power Co., 301 F. Supp. 538, 541 (N.D. Ga. 1969). The complaint alleges, in the language of the Act itself, that defendant has engaged in discriminatory practices, and is not subject to dismissal under this test.

2. With respect to the Motion for More Definite Statement, the plaintiff has provided sufficient notice to the defendants of the Government's claims to enable them to frame a responsive pleading. The Complaint, paraphrasing the language of the statute itself, meets the requirements of the Federal Rules of Civil Procedure and is not subject to a motion for more definite statement. See, e.g. United States v. Bob Lawrence Realty, Inc., 313 F. Supp. 870, 873 (N.D. Ga. 1970). The Federal Rules provide ample opportunity for the defendants to discover the facts of plaintiff's case following joinder of issue.

3. Defendants' counterclaim fails to state a claim upon which relief can be granted. No suit may be brought against the United States, as sovereign, without specific statutory consent, and the United States has not consented to suits of this nature. United States v. Northside Realty Associates, 324 F. Supp. 287 (N.D. Ga. 1971). 42 U.S.C. 2680 bars suits against the United States for libel, slander, or abuse of process. Accordingly, IT IS ORDERED that (1) defendants' Motion to Dismiss and Motion for More Definite Statement be and they are hereby denied, and (2) defendants' counterclaim be and it is hereby dismissed with prejudice.

_____, 1974

United States District Judge

Saxe, Bacon & Bolan, P.C.

Page 808308

39 EAST 68TH STREET
NEW YORK, NEW YORK 10021

JOHN GODFREY SAXE (1909-1953)
ROGERS H. BACON (1919-1962)

(212) 472-1400
CABLE: SAXUM

THOMAS A. BOLAN
COUNSEL

ROY M. COHN
STANLEY M. FRIEDMAN
DANIEL J. DRISCOLL
MICHAEL ROSEN
JOHN F. LANG
JAMES M. PECK
ROY R. KULCSAR
JEFFREY A. SHUMAN
RONALD F. POEPPLEIN
EDWARD H. HELLER
LOUIS BIANCONE †

April 19, 1978

† ADMITTED IN NEW JERSEY ONLY

Honorable Edward R. Neaher
United States District Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Re: U.S. v. Trump Management, Inc.
73-C-1529

Dear Judge Neaher:

This is to confirm that the scheduling of the status conference in the above-entitled action for May 9, 1978, at 9:30 a.m. is agreeable to counsel, and confirmed by Brian Heffernan of the U.S. Department of Justice.

Respectfully yours,

SAXE, BACON & BOLAN, P.C.

Stanley M. Friedman
Stanley M. Friedman

sb
cc: Brian Heffernan



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Bay 808308

Address Reply to the
Division Indicated
and Refer to Initials and Number

19 APR 1978

DSD:BFH:mop
DJ 175-52-28

Honorable Edward R. Neaher
United States District Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Trump Management, Inc.
Civil Action No. 73-C-1529

Dear Judge Neaher:

Homer LaRue of the United States Attorney's office has informed us that the Court proposes to reschedule the status conference in the captioned case for May 9, 1978 at 9:30 A.M. I have consulted with Mr. Friedman of Saxe, Bacon and Bolan, counsel for the defendant, and this is to advise you that May 9 is satisfactory to both parties.

We appreciate the Court's consideration and time in this matter.

Sincerely,

Drew S. Days, III
Assistant Attorney General
Civil Rights Division

By: 

Brian F. Heffernan
Attorney
Housing and Credit Section

MAY 3, 1974

B e f o r e: HONORABLE VINCENT A. CATOGGIO
United States Magistrate

AT 10:00 AM

CIVIL MOTION

C 1529 U. S. A. -vs- FRED C. TRUMP, et al.

DEFENDANT'S MOTION FOR SANCTIONS, ETC.

PEARANCES:

For Pltff: Henry A. Brachtl, Esq.
Frank E. Schwell, Esq.
Miss Goldweber

For Defts: Roy M. Cohn, Esq.
By: Scott Manley, Esq.

CASE CALLED - DELAYED 2 hrs DUE TO DEFENDANTS' ATTORNEY'S
LATENESS - GOVERNMENT ATTORNEYS PRESENT AS SCHEDULED -
RESPECTIVE PARTIES HEARD - PROCEEDINGS RECORDED - TWO TAPES -
MR. MANLEY AGREED THAT BY MAY 13, 1974 HE WILL NOTIFY THE
GOVERNMENT ATTORNEYS AS TO WHO IS STILL UNDER EMPLOYMENT
WITH TRUMP MANAGEMENT CORP., AND BY MAY 16, 1974 HE WILL
ANSWER INTERROGATORIES.

MAY 3, 1974

B e f o r e: HONORABLE VINCENT A. CATOGGIO
United States Magistrate

AT 10:00 AM

CIVIL MOTION

3 C 1529

U. S. A.

-vs-

FRED C. TRUMP, et al.

Plaintiff

~~DEFENDANT'S~~ MOTION FOR SANCTIONS, ETC.

APPEARANCES:

For Pltff: Henry A. Brachtl, Esq.
Frank E. Schwelb, Esq.

For Defts: Roy M. Cohn, Esq.

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
)	
Plaintiff,	)	CIVIL ACTION
	)	NO. 73 C 1529
)	
v.)	
)	
TRUMP MANAGEMENT, INC.,	)	SUPPLEMENTAL
	)	CONSENT ORDER
Defendants.)	

On the application of the Plaintiff, United States of America, and by consent of Defendant, Trump Management, Inc., it is hereby ordered that Part V (A) (2) of the Consent Order in this action filed in this Court on June 10, 1975, is hereby amended as follows:

(2) Occupancy

Not more than two (2) persons in a one bedroom apartment, nor more than four (4) persons, two (2) adults and two (2) children of the same sex */ in a two bedroom apartment.

Solely on the ground that

No applicant shall be denied tenancy [^] ~~because~~ he or she has children, ~~so long as the number of persons to occupy~~

*/ Except that children under seven years of age may be of different sexes.

~~the rental unit, and the sexes of the children conform
to the above occupancy standards.~~

ORDERED this _____ day of _____, 1975.

Edward R. Neaher

The undersigned apply for and
consent to the entry of this
Order.

For the Defendants

ROY M. COHN
Saxe, Bacon, Bolan &
Manley
39 E. 68th Street
New York, New York

FRED C. TRUMP

DONALD TRUMP

For the Plaintiff

Frank E. Schwelb

FRANK E. SCHWELB
Chief, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

Donna F. Goldstein

DONNA F. GOLDSTEIN
Attorney, Housing Section
Civil Rights Division
Department of Justice
Washington, D. C. 20530

DAVID G. TRAGER
United States Attorney
by HENRY A. BRACHTL
Assistant U.S. Attorney

Saxe, Bacon, Bolan & Manley

39 EAST 68TH STREET
NEW YORK, NEW YORK 10021

JOHN GODFREY SAXE (1909-1953)
ROGERS H. BACON (1919-1962)

(212) 472-1400

THOMAS A. BOLAN
COUNSEL

ROY M. COHN
SCOTT E. MANLEY (ADMITTED ILLINOIS AND INDIANA)
MICHAEL ROSEN

DANIEL J. DRISCOLL

HAROLD SCHWARTZ
MELVYN RUBIN
JEFFREY A. SHUMAN
LORIN DUCKMAN

June 13, 1974

BY HAND

Henry A. Bracthl, Assistant U.S. Attorney
Donna F. Goldstein, Attorney-Civil Rights
Division
United States Department of Justice
Federal Building
Brooklyn, New York

Dear Mr. Bracthl:

I am in receipt of your letter dated today which was waiting for me at my office upon my return from the Cohen v. Cohen trial this afternoon at 5:00 p.m.

We stand ready to let you begin inspecting and copying records in U.S.A. v. Trump tomorrow morning, June 14, as per my agreement with Miss Goldstein reached over the telephone on Wednesday. While I regret the misunderstanding that led to your descending upon the Trump offices with five stormtroopers Wednesday morning banging on the doors and demanding to be allowed to swarm haphazardly through all of the Trump files and to totally disrupt their daily business routine, I do not feel that there is any point in carrying the argument any further. I would assume that your objective is the same as ours in this matter, namely, proceeding orderly with pre-trial discovery so as to enable both sides to continue preparing for a fair trial in this matter. Toward that end, we look forward to cooperating with you Friday morning at our offices.

Miss Goldstein and I agreed that the inspection would take place at my offices instead of Trump so as to not have to unnecessarily totally disrupt the Trump necessary business routine. I would assume that by your demand in your letter to inspect the materials at Trump offices that Miss Goldstein neglected to inform you of our oral agreement to the contrary.

We are ready to provide you with over 1,000 files Friday on both old and current tenants of Trump. Because Trump cannot

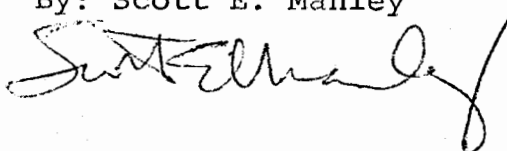
function at all with all of its current leases and files out of its offices, we will have to work out a schedule whereby as soon as you have completed inspecting and copying this very substantial amount of material that this material will be returned to the Trump office and additional material will be sent to our offices for your inspection.

With regard to the depositions of further Trump personnel tentatively scheduled to begin on June 18, I already have advised the Government that this date is impossible as both Mr. Cohn and myself will still be on trial before Justice Gomez in the Supreme Court of the State of New York in Cohen v. Cohen and Judge Gomez absolutely refuses to hear any application for even a half-day adjournment in that case. I will supply you with alternate dates as quickly as possible and I am sure we can come to an agreeable solution which will neither delay the matter unnecessarily for you nor prejudice the rights of the defendants by denying them the right to counsel in these proceedings. I would respectfully suggest that is completely unfair on your part to set forth ultimatums in the way of 3:00 deadlines to respond or else in view of the fact that you are completely aware of both Mr. Cohn and myself being on trial before Judge Gomez from 9:00 to 4:30 daily. We are completely ready to cooperate in discovery; all we require is a little time in which to assemble matter in view of our extremely heavy present litigation schedule.

Finally, I sincerely wish that at least from this point forward, that we could attempt to cooperate better in all of these matters. If your goal is to expedite discovery and to prepare for a fair trial for both sides as is ours, I think that this end would be better served by cooperation and observation of the basic courtesies normally extended between private counsel in litigation instead of continual threats by the Government and its treating the rules of civil procedure as some kind of undeviating Bible which cannot bend its timetables for even a few hours to promote the ends of justice.

Very truly yours,

SAXE, BACON, BOLAN & MANLEY
By: Scott E. Manley



SEM/ap
cc: Hon. Edward R. Neaher
United States District Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Honorable Vincent Catoggio
United States Magistrate
United States Courthouse
Eastern District of New York
225 Cadman Plaza East
Brooklyn, N.Y. 11201

United States Department of Justice

ct file
73C1529

INITIALS

JDP:CIS:es
File No.
730959

UNITED STATES ATTORNEY

EASTERN DISTRICT OF NEW YORK
FEDERAL BUILDING
BROOKLYN, N. Y. 11201

BY HAND

August 6, 1974

Roy M. Cohn, Esq.
Messrs. Saxe, Bacon, Bolan
and Manley
39 East 68th Street
New York, New York 10021

Re: U. S. v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Dear Mr. Cohn:

Enclosed herewith are the following documents:

1. Order to Show Cause, entered August 5, 1974,
2. Memorandum of the United States in Support of the Entry of an Order to Show Cause,
3. Response of United States to Defendant's Motion of July 26, 1974,
4. Affidavit of Frank E. Schwelb, dated August 2, 1974,
5. Affidavit of Donna F. Goldstein, dated August 2, 1974,
6. Affidavit of Elyse S. Goldweber with accompanying letter of November 5, 1973,
7. Plaintiff's Interrogatories to the Defendants, and
8. Report of the United States to the Court on the Status of Discovery.

Please note that the Order to Show Cause is returnable August 8, 1974, at 2:00 P.M.

Very truly yours,

DAVID G. TRAGER
United States Attorney

By: 

CARL I. STEWART
Assistant U. S. Attorney

Encls.
a/s

cc:

The Honorable Edward R. Neaher
United States District Judge
Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Saxe, Bacon, Bolan & Manley

39 EAST 68TH STREET
NEW YORK, NEW YORK 10021

ct file

7/2/75

JOHN GODFREY SAXE (1909-1953)
ROGERS H. BACON (1919-1982)

(212) 472-1400

THOMAS A. BOLAN
COUNSEL

ROY M. COHN
SCOTT E. MANLEY (ADMITTED ILLINOIS AND INDIANA)
MICHAEL ROSEN
DANIEL J. DRISCOLL

May 15th, 1975

Hon. Edward R. Neaher
United States District Court
Eastern District
U. S. Court House
225 Cadman Plaza East
Brooklyn, New York 11201

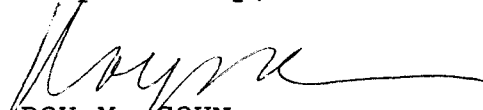
Re: Trump

Dear Judge Neaher:-

Your Honor can surmise from the six-page single space letter written to you by the Housing Section under date May 8, 1975, just how much bureaucratic knit-picking and time-wasting has characterized the process of agreeing on final language in the decree.

I think what they're trying to say is that a meeting with Your Honor would be constructive, which is precisely what I had suggested to Miss Goldstein last week.

Respectfully,


ROY M. COHN

RMC:at
cc: Frank Schwelb, Chief
Housing Section

SEP 13 1974

JSP:FES:DFG:car
DJ 175-52-28

Honorable Vincent A. Catoggio
Magistrate, United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Dear Judge Catoggio:

We have just received a copy of Mr. Roy Cohn's September 5, 1974, letter to you in which he contends that our response to defendants' objections to plaintiff's Request for Production of Documents in the above-captioned case was so untimely as to render the issue "academic." While we hesitate to burden you with additional correspondence on this matter, we believe the letter raises issues requiring a short response.

On August 20, after being informed by the United States Attorney's office that Mr. Cohn had objected by letter to our request to inspect records in Norfolk, Virginia, we delivered a letter to you which advised that we intended to respond fully to these objections. You may recall that on September 3, I advised your Honor by telephone that I was on that date mailing, by special delivery, plaintiff's response. During that conversation, it was my impression that the matter remained open for determination.

Despite Mr. Cohn's assertion that the issue is now "academic," we believe that Plaintiff's outstanding Request for Production of Documents, noticed on August 13, 1974, remains active and survives the September first discovery

deadline. Indeed, if plaintiff's September third response is deemed to be untimely because it comes after the discovery deadline, defendants would succeed in defeating what would otherwise be permissible discovery by making informal objections at the eleventh hour.

Mr. Cohn also indicates that he has asked Judge Neaher to fix an early trial date. We have, as yet, received no notice from the defendants, either formal or informal, that they have requested that this case be put on the trial calendar. However, we will be contacting Judge Neaher to advise him that we believe there are certain matters remaining outstanding in this lawsuit which need to be settled before this action is set for trial. These include our request to inspect records in Norfolk, Virginia, and a forthcoming motion which we intend to file to have defendants' July 26 notice of Motion and supporting Affidavits, which seek to have plaintiff's counsel held in contempt of court, stricken from the record.

Respectfully yours,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By:

DONNA F. GOLDSTEIN
Attorney
Housing Section

cc: Honorable Edward R. Neaher
Roy M. Cohn, Esquire

JSP:FES:NG:car
DJ 175-52-28

Honorable Edward R. Neaher
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Dear Judge Neaher:

On September 11, 1974, we received a copy of a letter sent by Mr. Roy Cohn to Magistrate Catoggio in which he states that he has requested that the above-captioned suit be placed on the trial calendar. As our responding letter to Magistrate Catoggio (a copy of which is enclosed) indicates, we believe there are important matters remaining outstanding which need to be settled before this case is set for trial.

For example, defendants have made objections to plaintiff's August 13th Request for Production of Documents. The parties are now awaiting a determination by Magistrate Catoggio as to the permissibility of this requested discovery. Moreover, we intend, in the very near future, to file a motion to Strike defendants' July 26th Notice of Motion and Supporting Affidavits which seek disciplinary action against plaintiff's counsel for alleged misconduct. As you may recall, on August 8, 1974, after the hearing on plaintiff's Order to Show Cause, the parties met with Judge Catoggio. At that time the defendants decided to withdraw their contempt motion from the calendar, but refused to agree to a full withdrawal with prejudice.

Plaintiff believes that allowing this motion to remain in its present state of limbo only serves to further cloud the issues in this lawsuit. It additionally unduly prejudices the reputation of one of plaintiff's counsel with charges which we are prepared to prove are totally without foundation.

The United States wants an early and expeditious trial in this case in keeping with the requirements of 42 U.S.C. 3613. In fact, this lawsuit could have already been tried had it not been for the continued delays and dilatory tactics occasioned by the defendants and their counsel. However, we do not believe that with these outstanding issues still unresolved, this case is now ready to be set for trial. Therefore, we respectfully urge that this case not be placed on the trial calendar until the resolution of these open matters.

Respectfully yours,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By:

NORMAN P. GOLDBERG
Attorney
Housing Section

cc: The Honorable Vincent A. Catoggio
Roy M. Cohn, Esquire

ct file

JDP:HAB:ec
F. #730959

April 16, 1974

BY HAND

Saxe, Bacon, Bolan & Manley, Esqs.
39 East 68th Street
New York, New York 10021

Attn: Roy M. Cohn, Esq.

Re: United States v. Fred C. Trump, et al.
U.S.D.C., E.D.N.Y.
Civil Action No. 73 C 1529

Dear Sirs:

We are sorry to learn from your associate Jeffrey Schuman, Esq. that you will not honor your commitment to produce previously designated officers, agents and employees of defendants in the above action for depositions on April 17, 18, 19 and 22, 1974, notwithstanding your written stipulation, by Mr. Schuman, so ordered by the Court on April 1, 1974, and the oral representation of Mr. Cohn of your firm to Government counsel on March 29, 1974. To avoid obviously futile expenditure, we have cancelled our request for a stenographer to record the depositions on those dates.

We regret, too, that defendant has chosen to violate the Court's order of February 5, 1974 which ordered defendants to answer plaintiff's interrogatories on or before April 1, 1974.

We will, of course, apply for appropriate sanctions against defendants.

Very truly yours,

EDWARD JOHN BOYD V
United States Attorney

By:

Henry A. Brachtel
HENRY A. BRACHTEL
Assistant U. S. Attorney

cc: The Honorable Edward R. Neaher
United States District Judge
225 Cadman Plaza East
Brooklyn, New York 11201

JSP:FES:ESG:saf
DJ 175-52-28

MAY 9 1974

Scott Manley, Esq.
Saxe, Bacon, Bolan & Manley
39 East 68th Street
New York, New York 10021

Re: United States v. Fred C. Trump, et al.,
Civil Action No. 73 C 1529

Dear Mr. Manley:

I am writing to confirm our telephone conversations of May 9, 1974. During our conversations, you requested that the United States stipulate to granting the defendants a ten day extension of time to respond to our interrogatories of November 7, 1973.

Ordinarily we would consent to such a request, however, in light of the fact that there have been so many delays in the above-styled lawsuit; that we have previously made a Motion for Sanctions; and that on May 3, 1974, Judge Catoggio ordered the defendants to respond to our interrogatories on or before May 16, 1974, we decline to consent to an extension of time.

If you decide to move for leave of court for an extension of time, we would naturally want to be served with a copy of all the pertinent papers.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By:

ELYSE S. GOLDWEBER
Attorney
Housing Section

cc: Hon. Edward R. Neaher
United States District Court Judge
Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Hon. Vincent Catoggio
United States Magistrate
Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

ct file

JEP:FEB:ESG:saf
DJ 175-52-28

MAY 9 1974

Scott Manley, Esq.
Saxe, Bacon, Dolan & Manley
39 East 68th Street
New York, New York 10021

Re: United States v. Fred C. Trump, et al.,
Civil Action No. 73 C 1529

Dear Mr. Manley:

I am writing to confirm our telephone conversations of May 9, 1974. During our conversations, you requested that the United States stipulate to granting the defendants a ten day extension of time to respond to our interrogatories of November 7, 1973.

Ordinarily we would consent to such a request, however, in light of the fact that there have been so many delays in the above-styled lawsuit; that we have previously made a Motion for Sanctions; and that on May 3, 1974, Judge Catoggio ordered the defendants to respond to our interrogatories on or before May 16, 1974, we decline to consent to an extension of time.

If you decide to move for leave of court for an extension of time, we would naturally want to be served with a copy of all the pertinent papers.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division

By:

ELYSE S. GOLDBERGER
Attorney
Housing Section

**cc: Hon. Edward R. Masher
United States District Court Judge
Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201**

**Hon. Vincent Catoggio
United States Magistrate
Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201**

June 21, 1974

Henry A. Bracht1, Esq.
Assistant U. S. Attorney
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

J. Stanley Pottinger, Esq.
Assistant Attorney General
Civil Rights Division
Department of Justice
Washington, D. C.

Att: Donna F. Goldstein, Esq.
Attorney, Housing Section

Saxe, Bacon, Bolan & Manley, Esqs.
39 East 68th Street
New York, New York 10021

Re: United States v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Gentlemen:

In connection with the application to adjourn the pre-trial hearing on June 27, 1974, the reason the hearing was scheduled was because of the apparent inability of the attorneys to conduct pre-trials processes in the usual and normal way. This appraisal was to be justified by the tenor of letters exchanged including those of June 13 and June 14, 1974.

Sometime ago I read to counsel the statutory provision which requires that a suit such as this be given preferred attention. Before that time, at that time and since that time it seems that Mr. Trump's attorneys have had one case after another which took preference over the instant one.

UNITED STATES MAGISTRATE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
UNITED STATES COURT HOUSE
BROOKLYN, NEW YORK 11201

June 18, 1974

Henry A. Bracht1, Esq.
Assistant U. S. Attorney
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Saxe, Bacon, Bolan & Manley, Esqs.
39 East 68th Street
New York, New York 10021

Re: United States v. Fred C. Trump, et al.
Civil Action No. 73 C 1529

Gentlemen:

A further conference in this case will be held before the undersigned on June 27, 1974 at 4:30 P. M. This meeting is made necessary by the tenor of your letter of June 13, 1974 and June 14, 1974. No excuse for non-attendance will be accepted and failure to appear will invite consideration of the imposition of sanctions.

Very truly yours,

Vincent A. Catoggio
VINCENT A. CATOGGIO
United States Magistrate
Eastern District of New York

cc: Honorable Edward R. Neaher
United States District Judge
Eastern District of New York

100 Jedwood Place
Valley Stream, L.I., N.Y.
July 19th, 1974

TO WHOM IT MAY CONCERN:

I, Paul Ziselman hereby make the following true and correct statements of my own free will:

I was formerly employed by Trump Management on a part-time basis as a rental agent at Beach Haven Apartments, 2611 W. 2nd Street, Brooklyn, New York. During my period of employment I personally never discriminated against any prospective tenants regardless of race, color or creed.

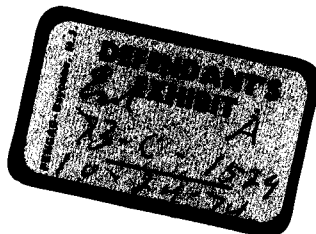
Additionally, I have never been instructed by any superior of the Trump Office, nor was it ever suggested or stated to me in any way, manner or form to follow a racially discriminatory rental policy while I was employed by this company. In fact, during such employment I rented many apartments to minorities, including blacks.

Despite the above mentioned, I was visited by a representative of the Justice Department who stated that an "FBI Agent" would be back to continue the interrogation. These statements were made in a threatening manner and I strongly resent and object to it. I was especially harassed and intimidated by a Donna Goldstein and in my opinion, her unethical conduct in itself should be a matter of investigation.

WITNESSED:

Paul Ziselman

Paul Ziselman
PAUL ZISELMAN



100 Jedwood Place
Valley Stream, L.I., N.Y.
July 19th, 1974

TO WHOM IT MAY CONCERN:

I, ^{PAULA} ~~Paul~~ Ziselman hereby make the following statements of my own free will, which are true and correct.

I was formerly employed by Trump Management on a part-time basis as a rental agent at Beach Haven Apartments, 2611 W. 2nd Street, Brooklyn, New York. During my employment under no circumstances did I ever discriminate, nor was I ever told to discriminate by any superior of Trump Management against any person regardless of race, color or creed desiring the rental of an apartment.

Paula Ziselman
~~Paul Ziselman~~
PAULA ZIZELMAN

WITNESSED:

Paul Ziselman

